

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Thursday, April 19, 2012

CASE NUMBER: C15-2012-0044

☐ Y ☐ Jeff Jack
☐ Y ☐ Michael Von Ohlen **Motion to PP to May 14, 2012**
☐ Y ☐ Nora Salinas
☐ Y ☐ Bryan King
☐ Y ☐ Susan Morrison – Stuart Hampton
☐ Y ☐ Melissa Hawthorne
☐ Y ☐ Heidi Goebel **2nd the Motion**
☐ - ☐ Cathy French (SRB only)
☐ - ☐ Dan Graham (SRB only)

APPLICANT: Nuria Zaragosa

OWNER: Michael Sadd

ADDRESS: 1917 DAVID ST

Interpretation Request: The appellant (Nuria Zaragosa) has filed an appeal, requesting an interpretation of whether the Planning and Development Department Director's determination to approve the proposed duplex residential use at 1917 David Street complies with the following code sections:

- 1) the proposed application exceeds the Land Development Code limitations placed on duplexes outlined in 25-2-555(D) which states on a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms;
- 2) the attic storage space does not meet the requirements of 25-2, Subchapter F, Section 3.3.3(C), which states, "A habitable portion of an attic, if: 1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater; 2. It is fully contained within the roof structure; 3. It has only one floor; 4. It does not extend beyond the footprint of the floors below; 5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and 6. Fifty percent or more of the area has a ceiling height of seven feet or less.
- 3.) the proposed duplex does not meet the requirements of 25-2-773(D). More specifically, the common wall of the proposed duplex does not extend for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot and the two units do not share a common roof.
- 4.) The proposed project is not compatible with an SF-3 use.
- 5.) The proposed project does not meet 25-2, Subchapter F, Section 2.1, which states the maximum development permitted on a property is limited to 0.4 to 1.0 floor-to-area ratio.

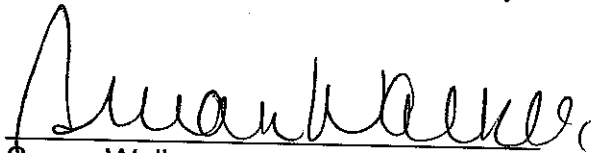
6.) The proposed duplex does not have the proper amount of off street parking per Appendix A of 25-6. More specifically, the appellant states the project exceeds both 4,000 square feet and more than six bedrooms, so one off street parking space should be required for each bedroom.

7.) The propose project should have to meet the landscaping requirements outlined under Section 25-2-981(B)(3), which states a duplex residential use is subject to landscaping requirements if it exceeds 4,000 square feet of gross floor area or has more than six bedrooms.

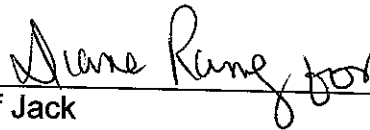
BOARD'S DECISION: The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to May 14, 2012, Board Member Heidi Goebel second on a 7-0 vote; POSTPONED TO MAY 14, 2012.

FINDING:

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:
2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:
3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:



Susan Walker
Executive Liaison



Jeff Jack
Chairman

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
INTERPRETATIONS
PART I: APPLICANT'S STATEMENT
(Please type)

STREET ADDRESS: 1917 David Street, Austin Texas 78705
LEGAL DESCRIPTION: Subdivision –

LOT 18 BLK 2 OLT 26-28 DIV D CARRINGTON SUBD

Lot (s) 18 Block 2 Outlot 26-28 Division Carrington
Subdivision _____

ZONING DISTRICT: SF-3

I/WE Nuria Zaragoza on behalf of myself/ourselves as
authorized _____

Agent for _____ affirm that on 23rd

Day of January, 2012__, hereby apply for an interpretation hearing before the Board of
Adjustment.

Watershed Protection and Development Review Department interpretation is:

Re: 2011-106377PR

- 1) The project does not exceed the LDC limitations placed on duplexes outlined on 25-2-555 D.
- 2) The attic space meets the exempt attic requirements outlined on 25-2, Subchapter F, Article 3, 3.3.3
- 3) The project meets the duplex requirements outlined on 25-2-773 (D).
- 4) The proposed project is compatible with SF-3 use.
- 5) The FAR of the project is .399, thus complies with the FAR limits for SF-3 zoning.
- 6) The project complies with 25-6-655 Appendix A
- 7) The project complies with 25-2-981, Subchapter C, Article 9

I feel the correct interpretation is:

- A) The project exceeds the LDC limitations placed on duplexes outlined on 25-2-555 D. It has 10 bedrooms, and with 4494 sq. ft. it exceeds the 4000 square foot limit.
- B) The attic space does not meet the exempt attic requirements outlined on 25-2, Subchapter F, Article 3, 3.3.3. The habitable space adds mass and is not fully contained within the roof structure.
- C) The project does not meet the duplex requirements outlined on 25-2-773 (D). It does not have a common roof, only share a section of a roof, and the common wall length does not meet the 50% criteria as measured from front to back.
- D) The project is not compatible with SF-3 use. It is clearly designed for group residential use as defined in the LDC 25-2-3 (5)
- E) The project exceeds .4 Floor to Area Ratio. All enclosed space over 5' in height shall be counted toward Gross Floor Area, in accordance with LDC 25-2 Subchapter F. 3.3.4. There is no provision in the LDC that provides for the exemption of storage space, or unfinished space.
- F) With 10 bedrooms, the project required 8 parking spaces per 25-6-655 Apendix A. With 4 parking spaces, the project does not meet the requirements.
- G) With the 10 bedrooms, the project needs to comply with the landscaping requirements outlined in 25-2-981. It does not.

NOTE: The board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable findings statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:

A) The project has 10 bedrooms, thus exceeds the number of bedrooms allowed under LDC 25-2-555 D

(D) This subsection applies to a duplex residential use.

(1) On a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms.

The limit was placed in 2003 as a remedy for the “super duplex”, and its devastating effects on neighborhoods. It was passed by Council with these words:

The Council finds that the regulations in this ordinance are necessary to ensure that a duplex residential use is not established unless it is compatible with other nearby land uses. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety

Although some of the bedrooms are not accurately labeled, this structure has a total of 10 bedrooms, plus 1292 sq. ft. of potentially habitable “storage space”. This “storage space” will be created at great expense, through the extensive use of dormers, and two full sets of stairs.

The ten bedrooms will be served by 6 full bathrooms, with a total of 12 lavatory sinks.

The vast majority of projects are unaffected by bedroom counts. There are some instances, however, when the number of bedrooms needs to be calculated. This is the case with 25-2-555. If the City is going to regulate based on bedrooms counts, it is unreasonable for reviewers to refuse the authority to make that determination. At this point, reviewers simply read what is written on a plan. The process is based on the “honor system”. Real Estate professionals, appraisers, habitually determine what is a bedroom and what is not a bedroom. Any of them would report that this project exceeds six bedrooms.

For the purposes of interpreting 25-5-555D, and not allowing this project to re-start the “super duplex” practice, a bedroom could reasonably be defined as any room that:

- meets the definition for habitable space under IRC 2006 Section R202 (space to be used for living, eating, cooking, and sleeping) AND
- meets the minimum area requirements per IRC 2006 section 304 (70 square feet, minimum 7” dimension) AND
- is a private space or can be made private by the addition of a door AND
- has outside door and or window which meets the minimum requirements for emergency escape

To reiterate, the vast majority of projects would be unaffected by a bedroom definition. For those projects where the number of bedrooms trigger a regulation, common sense design variations would ensure reasonable use, while preventing bad actors from exploiting the land Development Code and the neighborhoods that have to live with their projects.

For example, on this project the game rooms are fully enclosed private spaces. A game room, truly intended to be a game room, would likely meet all the above mentioned criteria except that of privacy. Offices could have windows that deviate from the egress requirements.

At this time, due to the inclusion of the potentially habitable attic as square footage, the project exceeds the 4,000 sq ft maximum square footage for a duplex on a lot less than 10,000sq. ft.

B) The attic space does not meet the exempt attic requirements outlined on 25-2, Subchapter F, Article 3, 3.3.3

The permit at this time states that "each unit has space at the highest floor which is exemptible under 25.2 subchapter F." We reserve the right to appeal this if not addressed by the time of the hearing. More information will be provided, if the exemption remains on the permit.

C) The project does not meet the duplex requirements outlined on 25-2-773 (D)

(D) The two dwelling units are subject to the following requirements:

- (1) The two units must have a common floor and ceiling or a common wall, which may be a common garage wall, that:
 - (a) extends for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot; and
 - (b) maintains a straight line for a minimum of four foot intervals or segments.
- (2) The two units must have a common roof.

The common wall in this project does not extend for 50 % of the maximum depth, as measured from the front to the rear of the lot.

The two units share not a roof, but a **portion of a roof**.

D) The project is not compatible with SF-3 use. It is clearly designed for group residential use as defined in the LDC 25-2-3 (5)

Group Residential use is the use of a site for occupancy by a group of more than six persons who are not a family, on a weekly or longer basis. This use includes fraternity and sorority houses, dormitories, residence halls, and boarding houses.

It is apparent in the plans that the intended use for this structure is group residential. It is unfathomable that there be 12 lavatory sinks for 6 residents, or almost 1300 sq. ft. of habitable storage space. This space will store humans, and many more than six.

It is not reasonable to approve a permit that will establish a structure intended for an illegal use.

This property owner has run an illegal four-plex on the site since he purchased the property in 2006. Although it has had an open Code Compliance Case since the purchase, it has continued to be rented and inhabited.

E) At 4,494 square feet of gross floor area, the project significantly exceeds the .4 FAR maximum of 3,200 square feet.

§ 3.3. GROSS FLOOR AREA.

In this Subchapter, GROSS FLOOR AREA has the meaning assigned by Section 25-1-21 (GROSS FLOOR AREA means the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls. The term includes loading docks and excludes atria airspace, parking facilities, driveways, and enclosed loading berths and off-street maneuvering areas), with the following modifications:

3.3.1. In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4.

The "storage space" is enclosed and is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4. Hence, it should be counted as Gross Floor Area in the Floor to Area Ratio calculation.

F) With 10 bedrooms, the project required 8 parking spaces per 25-6-655 Appendix A. With 4 parking spaces, the project does not meet the requirements.

Appendix A states that a duplex with more than 6 bedrooms must provide one parking space per bedroom. As this project is in the urban core, it would be reduced by 20% to 8 parking spaces. Although it is apparent that the parking plan for this project includes the decomposed parking area surrounding the legal parking spaces, they would not be legal parking spaces as they would significantly increase impervious cover beyond the allowable 45%.

G) With the 10 bedrooms, the project needs to comply with the landscaping requirements outlined in 25-2-981. It does not.

2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:

In order for this lot to be developed in the manner in which this permit seeks to develop it, it would require MF-4 zoning. If that is the intention, the property owner should seek a zoning change. Otherwise, this property should be developed with the same regulations as SF-3 properties, with a structure intended to house a MAXIMUM of 6 unrelated persons.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:

Granting this permit will result in a special privilege to this property owner by permitting a structure to be built which does not meet the requirements of the Land Development Code. This interpretation seeks to ensure that this property is developed consistently with other SF-3 properties.

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(a) extends for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot; and

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This property owner has run an illegal four-plex on the site since he purchased the property in 2006. Although it has had an open Code Compliance Case since the purchase, it has continued to be rented and inhabited.

E) At 4,494 square feet of gross floor area, the project significantly exceeds the .4 FAR maximum of 3,200 square feet.

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Appendix A states that a duplex with more than 6 bedrooms must provide one parking space per bedroom. As this project is in the urban core, it would be reduced by 20% to 8 parking spaces. Although it is apparent that the parking plan for this project includes the decomposed parking area surrounding the legal parking spaces, they would not be legal parking spaces as they would significantly increase impervious cover beyond the allowable 45%.

G) With the 10 bedrooms, the project needs to comply with the landscaping requirements outlined in 25-2-981. It does not.

2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:

In order for this lot to be developed in the manner in which this permit seeks to develop it, it would require MF-4 zoning. If that is the intention, the property owner should seek a zoning change. Otherwise, this property should be developed with the same regulations as SF-3 properties, with a structure intended to house a MAXIMUM of 6 unrelated persons.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that: _____

Granting this permit will result in a special privilege to this property owner by permitting a structure to be built which does not meet the requirements of the Land Development Code. This interpretation seeks to ensure that this property is developed consistently with other SF-3 properties.



To: Mr. Jeff Jack, Chair and
Members of the Board of Adjustment

From: John M. McDonald, Development Services Manager
Planning and Development Review Department

Date: April 18, 2012

Re: An Administrative Appeal Request
Case No. C15-2012-0044
Property Address: 1917 David Street

Ms. Nuria Zaragosa (the "Appellant") has filed an administrative appeal, requesting an interpretation of whether the Planning and Development Review Department Director's approval of a duplex residential use complies with the following sections of the Land Development Code (LDC):

- 1) the proposed application does not exceed the Land Development Code limitations placed on duplexes outlined in 25-2-555(D) which states on a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms;
- 2) the attic storage space does not meet the requirements of 25-2, Subchapter F, Section 3.3.3(C), which states, "A habitable portion of an attic, if: 1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater; 2. It is fully contained within the roof structure; 3. It has only one floor; 4. It does not extend beyond the footprint of the floors below; 5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and 6. Fifty percent or more of the area has a ceiling height of seven feet or less;
- 3) the proposed duplex does not meet the requirements of 25-2-773(D). More specifically, the common wall of the proposed duplex does not extend for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot and the two units do not share a common roof;
- 4) The proposed project is not compatible with an SF-3 use.

- 5) The proposed project does not meet 25-2, Subchapter F, Section 2.1, which states the maximum development permitted on a property is limited to 0.4 to 1.0 floor-to-area ratio;
- 6) The proposed duplex does not have the proper amount of off street parking per Appendix A of 25-6. More specifically, the appellant states the project exceeds both 4,000 square feet and more than six bedrooms, so one off street parking space should be required for each bedroom; and
- 7) The propose project should have to meet the landscaping requirements outlined under Section 25-2-981(B)(3), which states a duplex residential use is subject to landscaping requirements if it exceeds 4,000 square feet of gross floor area or has more than six bedrooms.

For brevity and uniformity staff will respond to each of the seven items in sequential order, then address the findings.

- 1) The proposed design labels six bedrooms within the duplex structure which meets the limitation on bedrooms under Section 25-2-555(D). The square footage of living area proposed for this duplex residential structure is 3,198 with a lot size of 7,999 square feet.
- 2) The proposed duplex at this address was approved on January 6, 2012 with attic space being utilized for storage over the first floor of both units A and B. The applicant provided floor plans that show storage in the attic space only and not habitable space. In order to receive a habitable attic exemption an applicant must demonstrate they are using the attic floor area for habitation.
- 3) The length of the structure as measured from the front lot line to the back lot line is 86'5" and the length of the common wall is 43'3", which is slightly over 50%. The proposed design dictates the length of the second floor roofline and it is common to both units.
- 4) The project is design and labeled as a duplex residential use and as designed does not exceed the limitation of six bedrooms.
- 5) See staff response number one (1).
- 6) See staff response numbers one (1), two (2) and four (4).
- 7) See staff response numbers one (1), two (2) and four (4).

FINDINGS

Staff does not believe there is reasonable doubt or difference of interpretation as to the specific intent of the regulations, because the number of bedrooms and proposed living area for this application for a building permit meet the regulations of 25-2-555(D), an attic that is not being utilized for habitation does not count towards gross floor area, a

common roof and wall are present in the proposed design, and additional parking spaces, along with landscaping requirements do not apply to the proposed design.

Staff believes the use provisions clearly permit the use which is in character with the uses enumerated for the various zones and with the objective of the zone in question because the site is being developed with a duplex residential use. All site development regulations for a duplex residential use in a SF-3-NP zoning district have been met and the site complies with the residential design and compatibility (McMansion) standards.

The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated; in that, the proposed design meets all regulations for a duplex residential use and similar designs have been approved throughout the City of Austin's permitting jurisdiction.

If you have any questions, please contact me at 974-2728 or by e-mail at john.mcdonald@ci.austin.tx.us.

cc: Greg Guernsey, Director, PDRD
Brent Lloyd, Law Department
Donald Birkner, Assistant Director, PDRD
Kathy Haught, Division Manager, PDRD
Susan Walker, Planner Senior, PDRD

Applicable LDC Code Sections In Sequential Order

§ 25-2-555 FAMILY RESIDENCE (SF-3) DISTRICT REGULATIONS.

(D) This subsection applies to a duplex residential use.

(1) On a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms.

(2) On a lot with a lot area of 10,000 square feet or more, a duplex structure may not exceed a floor-to-area ratio of 0.57 to 1.

3.3.3 Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter:

C. A habitable portion of an attic, if:

1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
2. It is fully contained within the roof structure;
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

§ 25-2-773 DUPLEX RESIDENTIAL USE.

(D) The two dwelling units are subject to the following requirements:

(1) The two units must have a common floor and ceiling or a common wall, which may be a common garage wall, that:

- (a) extends for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot; and
- (b) maintains a straight line for a minimum of four foot intervals or segments.

(2) The two units must have a common roof.

APPENDIX A. TABLES OF OFF-STREET PARKING AND LOADING REQUIREMENTS.

Use Classification	Minimum Off-Street Parking Requirement	Off-Street Loading Requirement
Duplex residential Single-family attached residential Standard If larger than 4,000 sq. ft. or more than 6 bedrooms	4 spaces 4 spaces or 1 space for each bedroom, whichever is greater	None

ARTICLE 9. LANDSCAPING.

Division 1. General Provisions.

§ 25-2-981 APPLICABILITY; EXCEPTIONS.

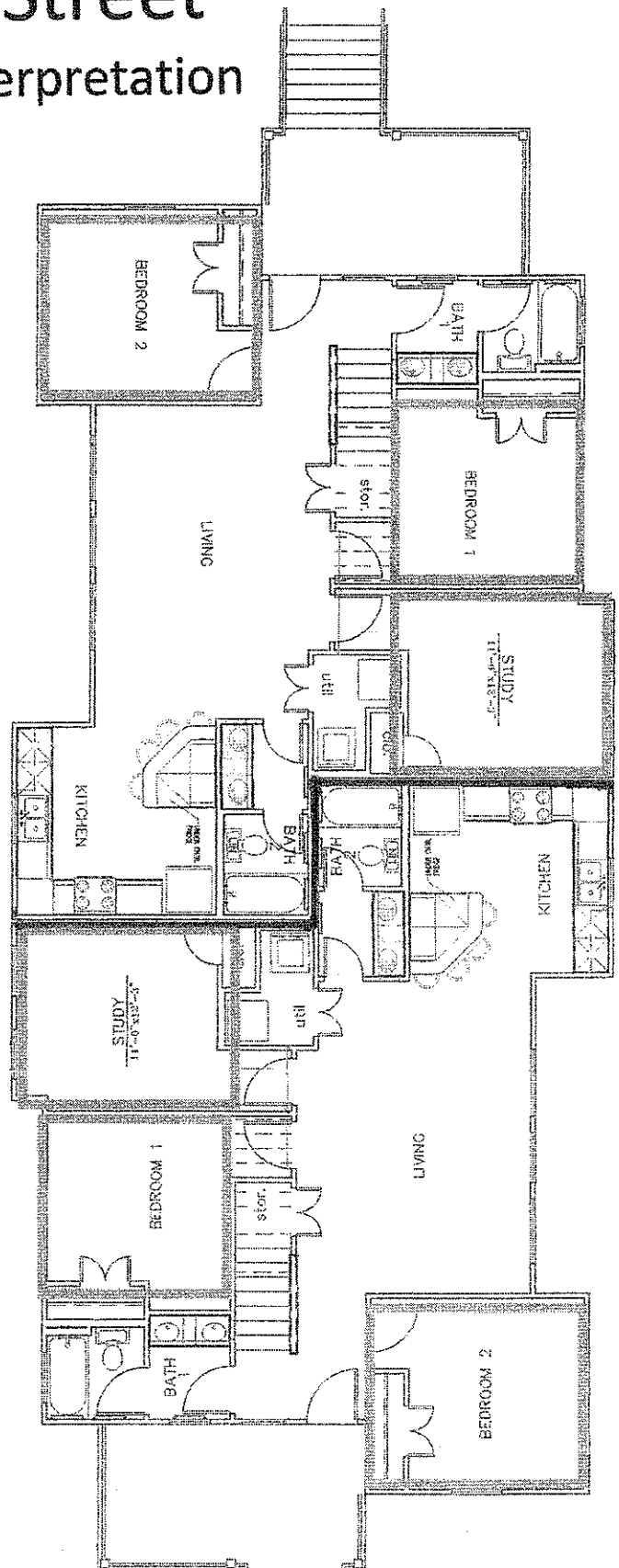
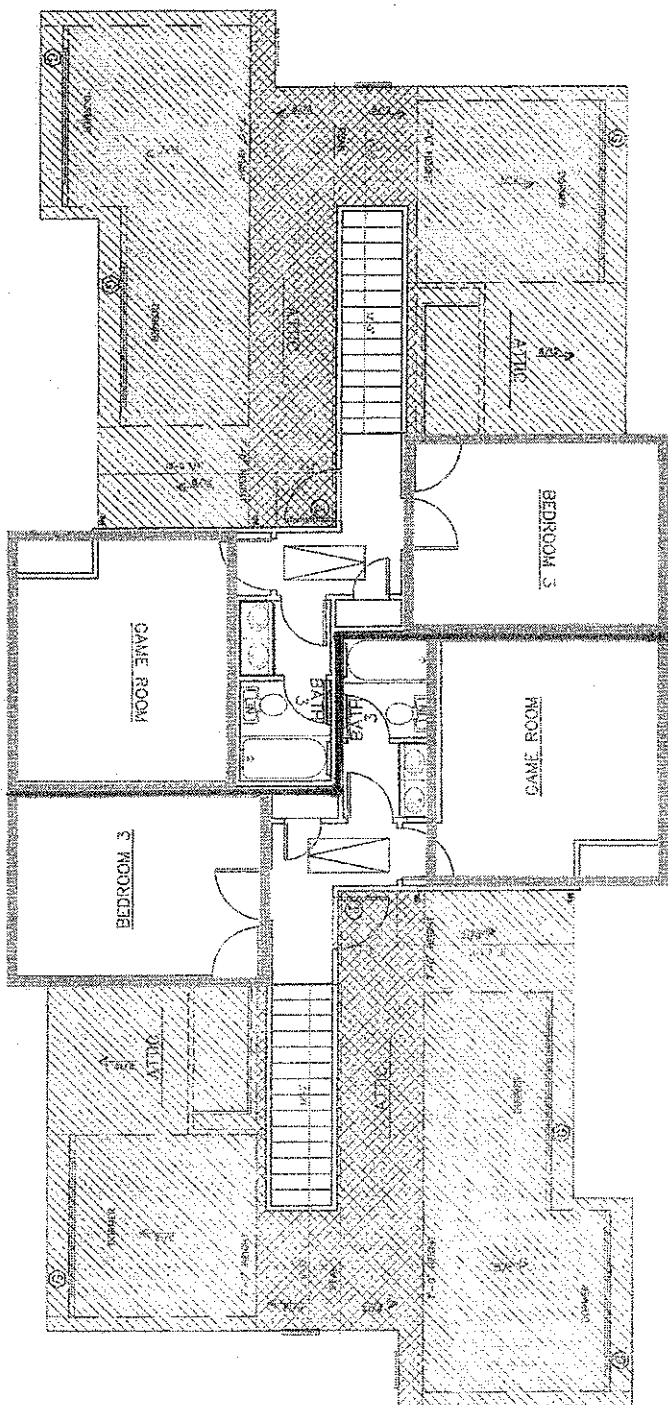
(A) Except as provided in Subsection (B), this article applies in the city's zoning jurisdiction.

(B) Division 2 (*Requirements for a Site Plan*) and Division 3 (*Additional Site Plan Requirements in Hill Country Roadway Corridors*) do not apply to:

(3) a lot containing one duplex residence, unless the residence exceeds 4,000 square feet of gross floor area or has more than six bedrooms;

1917 David Street

BOA Appeal for Interpretation



Super-Duplex Ordinance

The ordinance was passed as an emergency measure, and took effect immediately upon its passage on June 5th, 2003.

When determining whether staff is interpreting terms used in the ordinance accurately, it must be taken into account what the intent of the ordinance was. The ordinance was passed to stop the development of duplexes intended to house more occupants than what was allowed by the occupancy limit – a maximum of three unrelated persons per side of a duplex.

In order to achieve that goal, the ordinance restricted the number of bedrooms to be in line with the maximum occupancy.

The ordinance does not say: "no more than three rooms may be used as bedrooms". It says that the "structure" may not have more than three bedrooms. The restriction is on the structure itself, not on its use.

The ordinance also states that on a site with a lot area of less than 10,000 square feet, a duplex cannot exceed 4,000 square feet of gross floor area. This project, not only exceeds the number of bedrooms, but also the square footage. For that reason, bedrooms in excess of six are labeled as "gameroom/study" and space clearly intended to be habitable, is labeled as "storage".

The mislabeling of these spaces is a blatant attempt to circumvent the Code.

Intent of Super Duplex Ordinance

The "poster child" of super duplexes during the time of the passage of the super duplex ordinance was 3500 Duval St.

To further evaluate the intent of the ordinance, we show the similarities between 1917 David and 3500 Duval. The ordinance was intended to prevent projects exactly like 1917 David St.



	3500 Duval St.	1917 David St.
Lot Size	8,448 sq ft	8,000 sq ft
Gross Floor Area	4,661	4,494 *
Bedrooms	12	10-14 **
Parking	12	4

* Not counting real attic, but counting 1294 sq ft of "storage"

** Depending on number of bedrooms in "storage area"

ORDINANCE NO. 030605-49

AN ORDINANCE AMENDING SECTIONS 25-2-511, 25-2-555, AND 25-2-981 OF THE CITY CODE AND REPEALING AND REPLACING SECTION 25-2-773 OF THE CITY CODE RELATING TO DUPLEX RESIDENTIAL USE; REPEALING ORDINANCE NUMBER 030227-28 AS AMENDED BY ORDINANCE NUMBER 030522-15; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 25-2-511(A) of the City Code is amended to read as follows:

(A) Notwithstanding any other provision of this code, except [Except] as provided in Subsection (B):[;]

(1) not more than six unrelated persons may reside in a dwelling unit; and

(2) not more than three unrelated persons 18 years of age or older may reside in a dwelling unit of a duplex residential use, unless:

(a) before June 5, 2003:

(i) a building permit for the duplex structure was issued; or

(ii) the use was established; and

(b) after June 5, 2003 the gross floor area and the number of bedrooms in the duplex structure did not increase, except for the completion of construction authorized before that date.

PART 2. Section 25-2-555 of the City Code is amended to add a new Subsection (D) to read as follows:

(D) This subsection applies to a duplex residential use.

(1) On a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms.

(2) On a lot with a lot area of 10,000 square feet or more, a duplex structure may not exceed a floor-to-area ratio of 0.57 to 1.

PART 3. Section 25-2-773 of the City Code is repealed and replaced by a new Section 25-2-773 to read as follows:

§ 25-2-773 DUPLEX RESIDENTIAL USE.

- (A) For a duplex residential use, the base zoning district regulations are superseded by the requirements of this section.
- (B) For a duplex residential use:
 - (1) minimum lot area is 7,000 square feet;
 - (2) minimum lot width is 50 feet;
 - (3) maximum building cover is 40 percent;
 - (4) maximum impervious cover is 45 percent; and
 - (5) maximum building height is the lesser of:
 - (a) 30 feet; or
 - (b) two stories.
- (C) Except as provided in Subsection (D), four parking spaces are required for a duplex residential use.
- (D) For a duplex that exceeds 4,000 square feet of gross floor area or has more than six bedrooms, the number of parking spaces required is the greater of:
 - (1) four; or
 - (2) one space for each bedroom.
- (E) Not more than one required parking space may be located behind another required parking space.

PART 4. Section 25-2-981(B) of the City Code is amended to read as follows:

- (B) This article does not apply to:
 - (1) property zoned central business district or downtown mixed use district;
 - (2) a lot containing one single-family residence;

- (3) a lot containing one duplex residence, unless the residence exceeds 4,000 square feet of gross floor area or has more than six bedrooms [~~with fewer than six bedrooms~~];
- (4) a two-family residential use;
- (5) a secondary apartment special use;
- (6) substantial restoration of a building within one year after the building is damaged;
- (7) restoration of a building with a historic designation; or
- (8) interior or facade remodeling, if the front and side exterior walls of the building remain in the same location.

PART 5. Ordinance Number 030227-28 as amended by Ordinance Number 030522-15 is repealed.

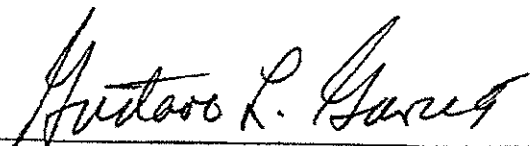
PART 6. The Council waives the requirements of Sections 2-2-3 and 2-2-7 of the City Code for this ordinance.

PART 7. The Council finds that the regulations in this ordinance are necessary to ensure that a duplex residential use is not established unless it is compatible with other nearby land uses. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED

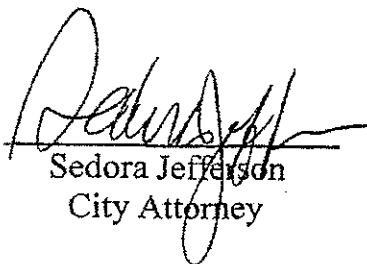
_____, June 5, 2003

§
§
§



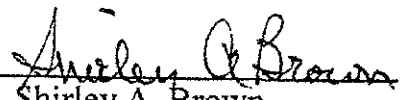
Gustavo L. Garcia
Mayor

APPROVED:



Sedora Jefferson
City Attorney

ATTEST:



Shirley A. Brown
City Clerk

The Label Game-

Attached are two examples of circumvention of the LDC by changing bedroom labels, both during the permitting process, and after obtaining a certificate of occupancy.

3005 Washington Ave, in the Heritage neighborhood, first submitted a set of plans, and then obtained final approval on another. There were no design changes, only the labels on bedrooms. From the first set to the second set, a "study" becomes a "gameroom" and a "bedroom" becomes a "study". Of course, this has nothing to do with the real intention for the spaces, to be bedrooms.

An example of a change in label after the permitting process is 2800 San Pedro, in the Shoalcrest Neighborhood. The plans clearly identify, just like 1917 David, a duplex with a total of 6 bedrooms and 6 bathrooms. Upon completion, the duplex is quickly rented out as a 10 bedroom 6 bathroom duplex, for a total of \$10,000/month.

Similar 6/6 Duplex turns into a 10/6 after CO renting for \$10,000/month

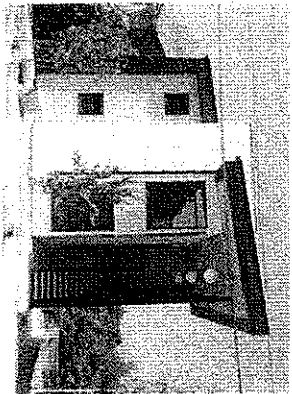
Search Results

Search Results

2800A San Pedro

Back

Click image to enlarge



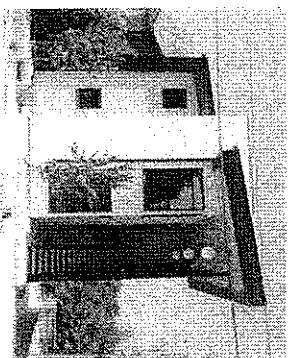
Status: Pre Lease
Location: Austin
Area: West Campus
Rent: \$5,000.00
Type: Duplex
Living Areas: 1
Bedrooms: 6
Bathrooms: 3

Unit Description:
Heavy construction in the heart of West Campus! www.touriscorp.com/752163

2800B San Pedro

Back

Click image to enlarge

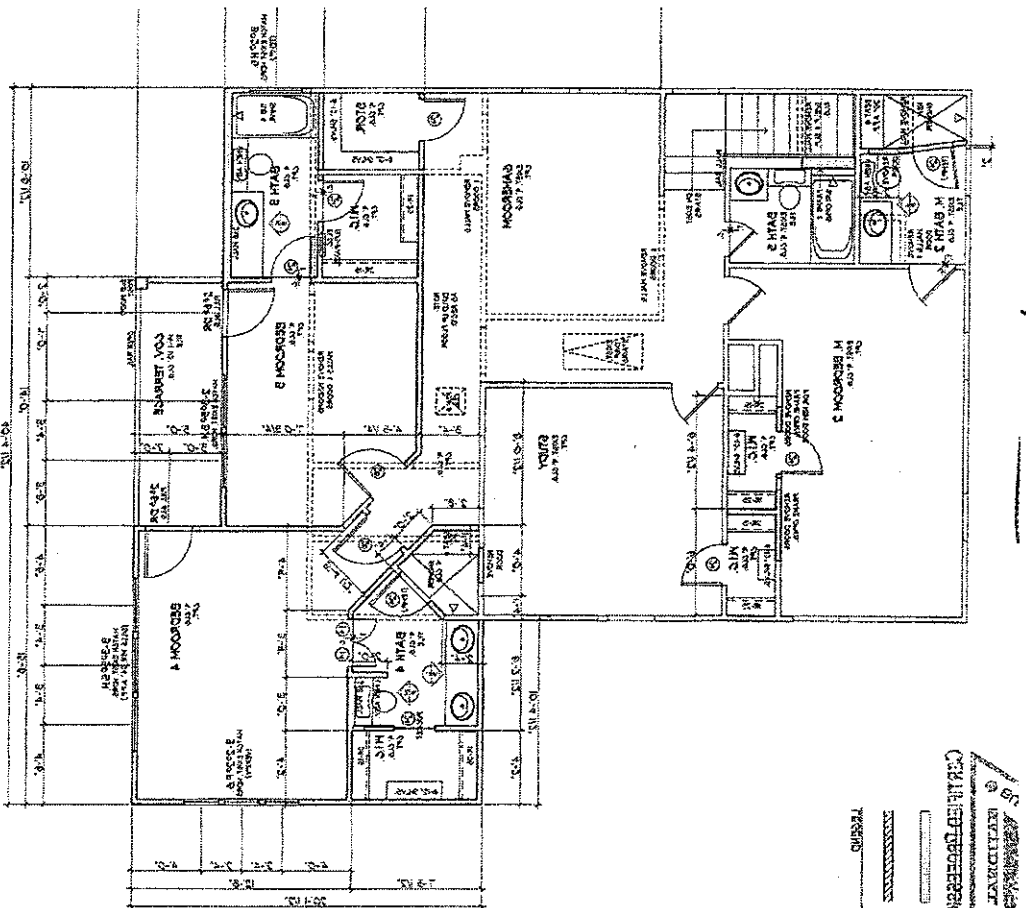
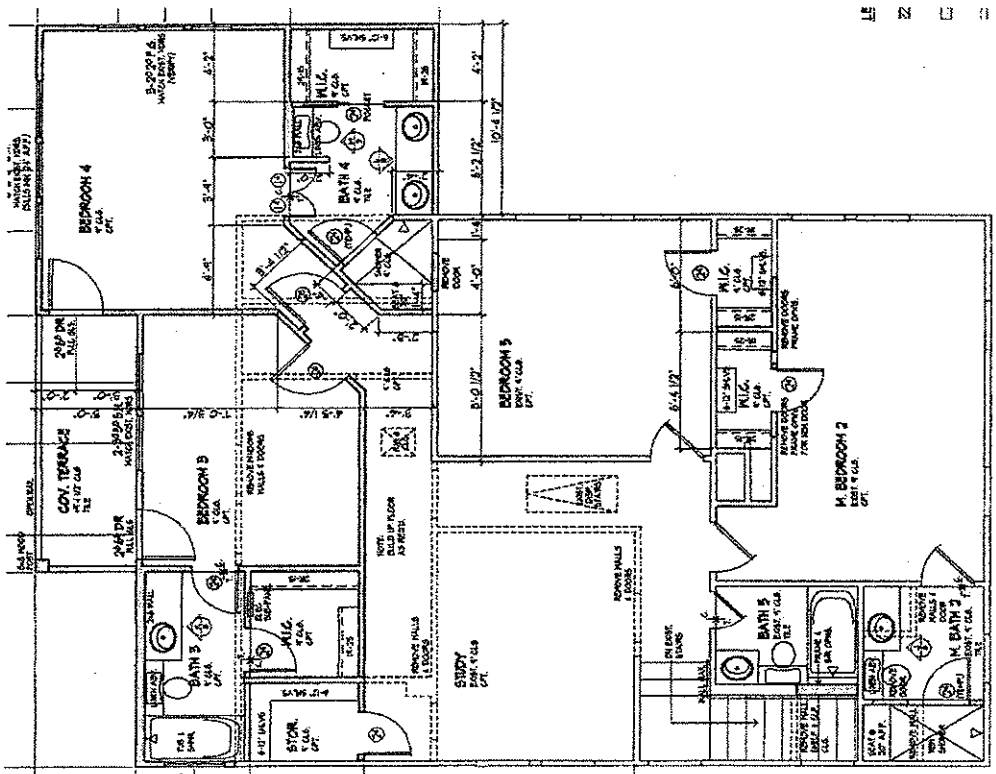


Status: Pre Lease
Location: Austin
Area: West Campus
Rent: \$5,000.00
Type: Duplex
Living Areas: 1
Bedrooms: 6
Bathrooms: 3

Unit Description:
www.touriscorp.com/752163

Label Game

3005 Washington Ave- During the permitting process, "Study" becomes "Gamerroom",
 "Bedroom #5" becomes "Study".



1917 David Plans:

10 bedrooms

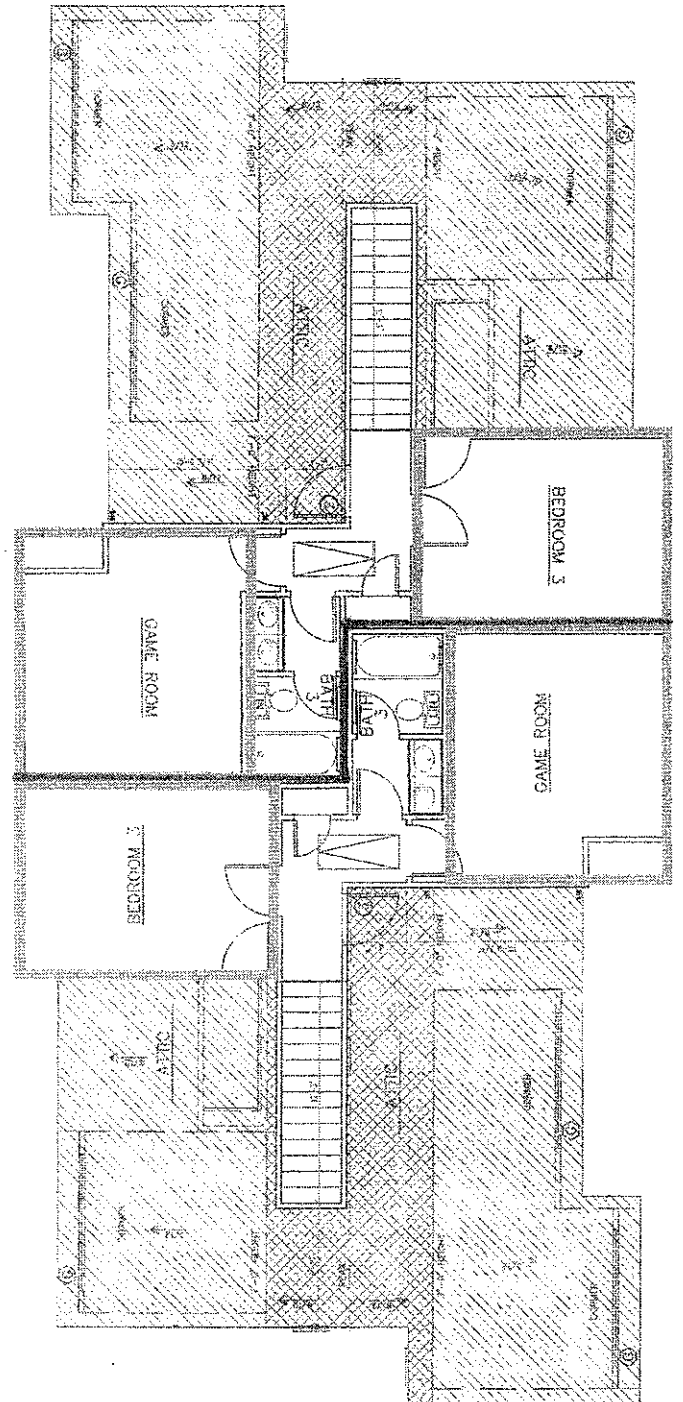
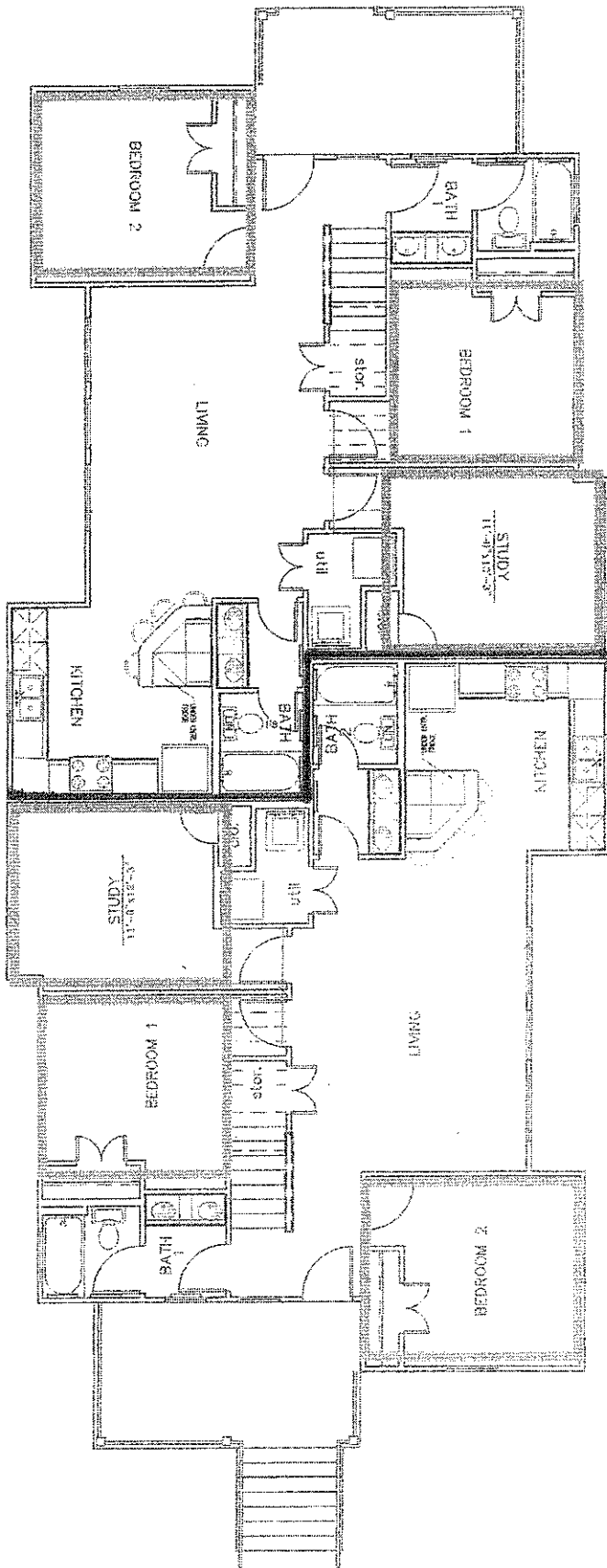
12 bathroom lavatory sinks

6 bathtubs

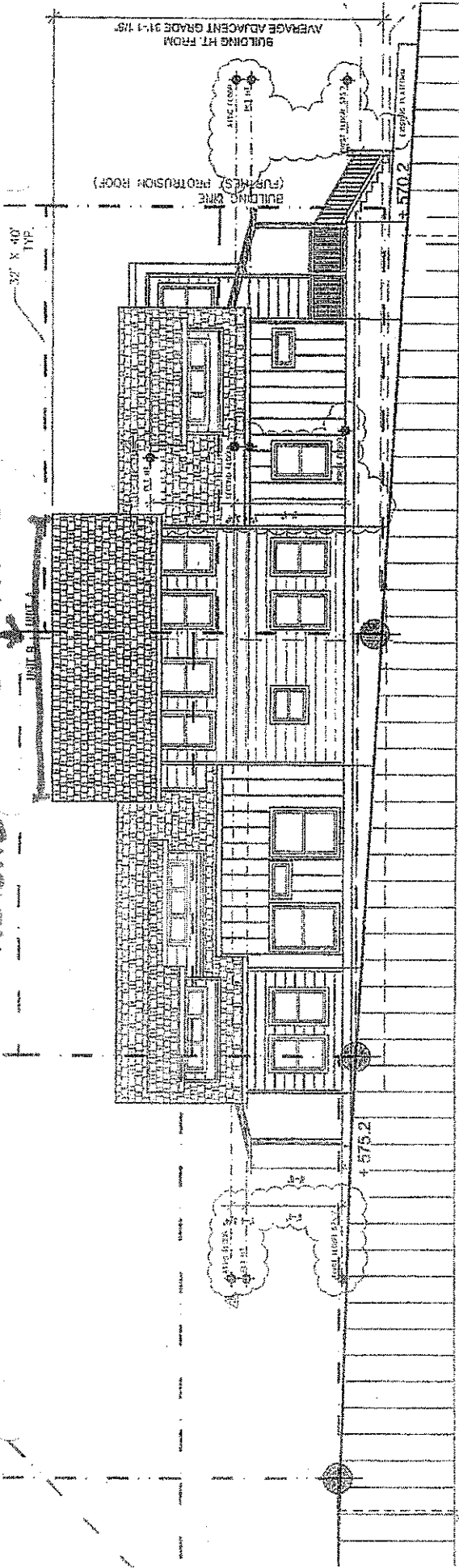
840 square feet of uninhabitable storage space

1294 square feet of potentially habitable storage space

Maximum total occupancy: 6 unrelated persons



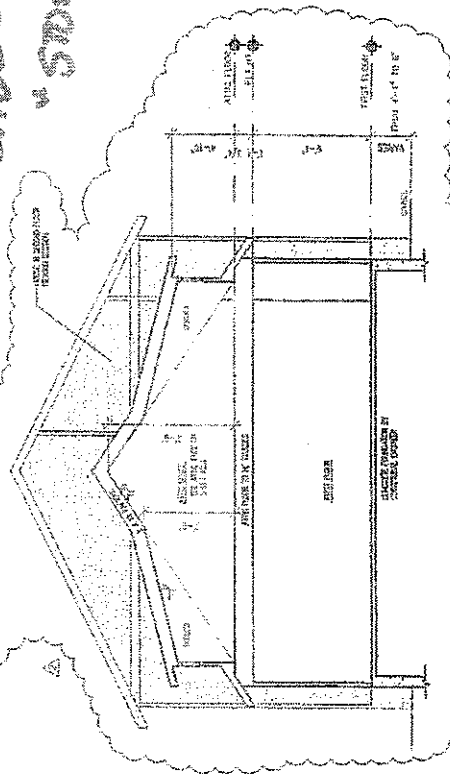
ACTUAL GRADE ATTIC



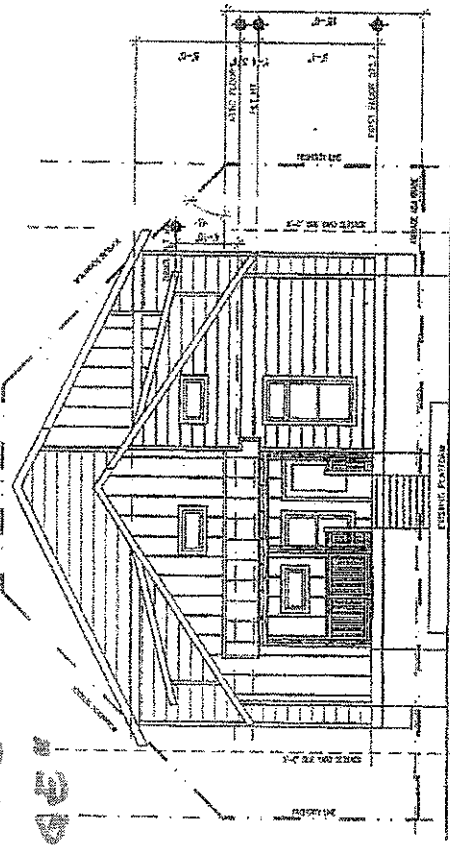
2 NORTH ELEVATION 3/16"

DORMERS WITH A STARTING HEIGHT OF 4'10", UNDOUBTEDLY ADD MASS, AND CREATE A HABITABLE ATTIC SPACE LABELED AS "STORAGE"

SECTION ADDED TO HELP WITH ATTIC SPACE CLARIFICATION, PLYING ATTIC HERE, ETC.



3 ATTIC SECTION 3/16"

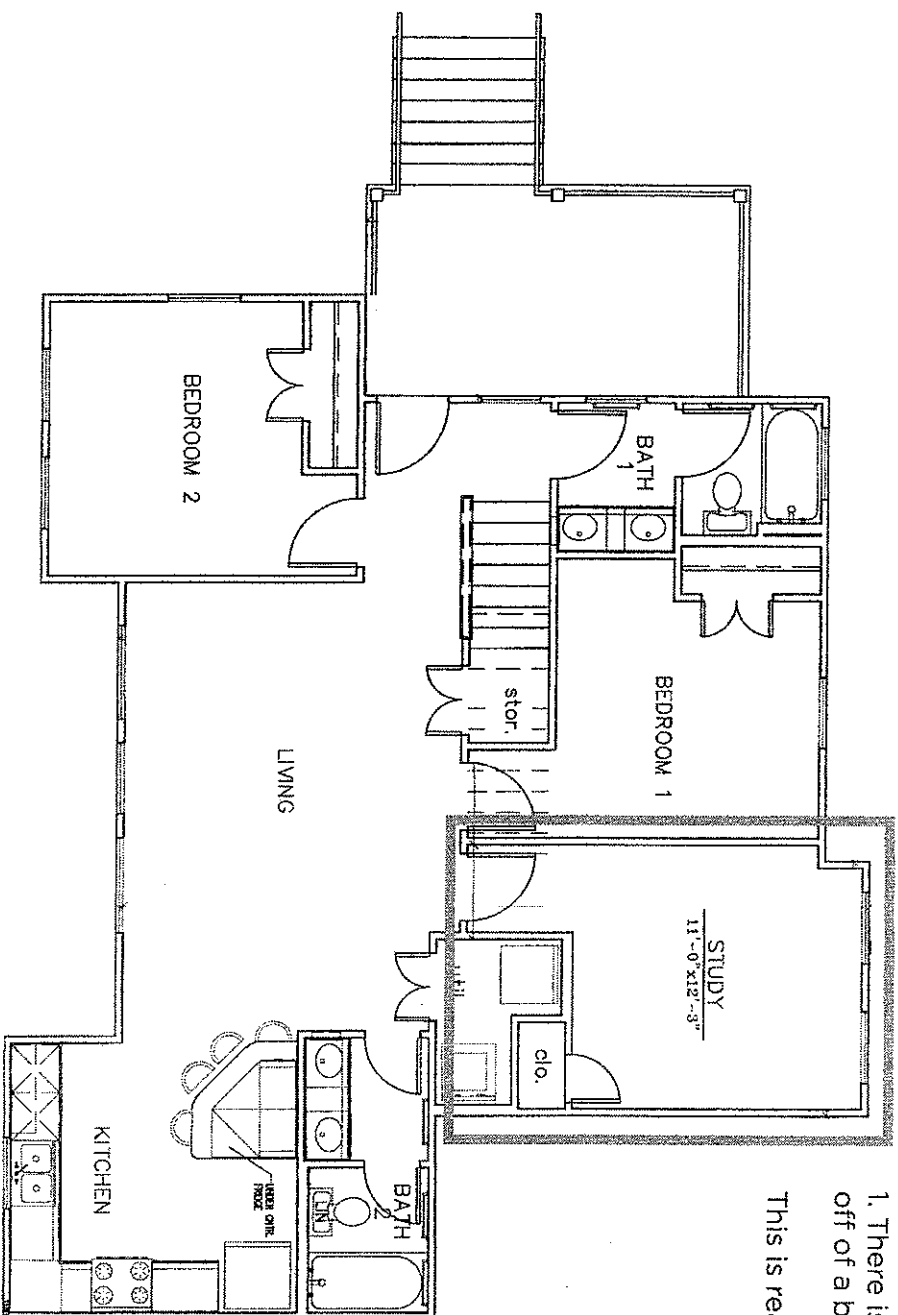


1 WEST ELEVATION 3/16"

MATERIAL LIST

1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16

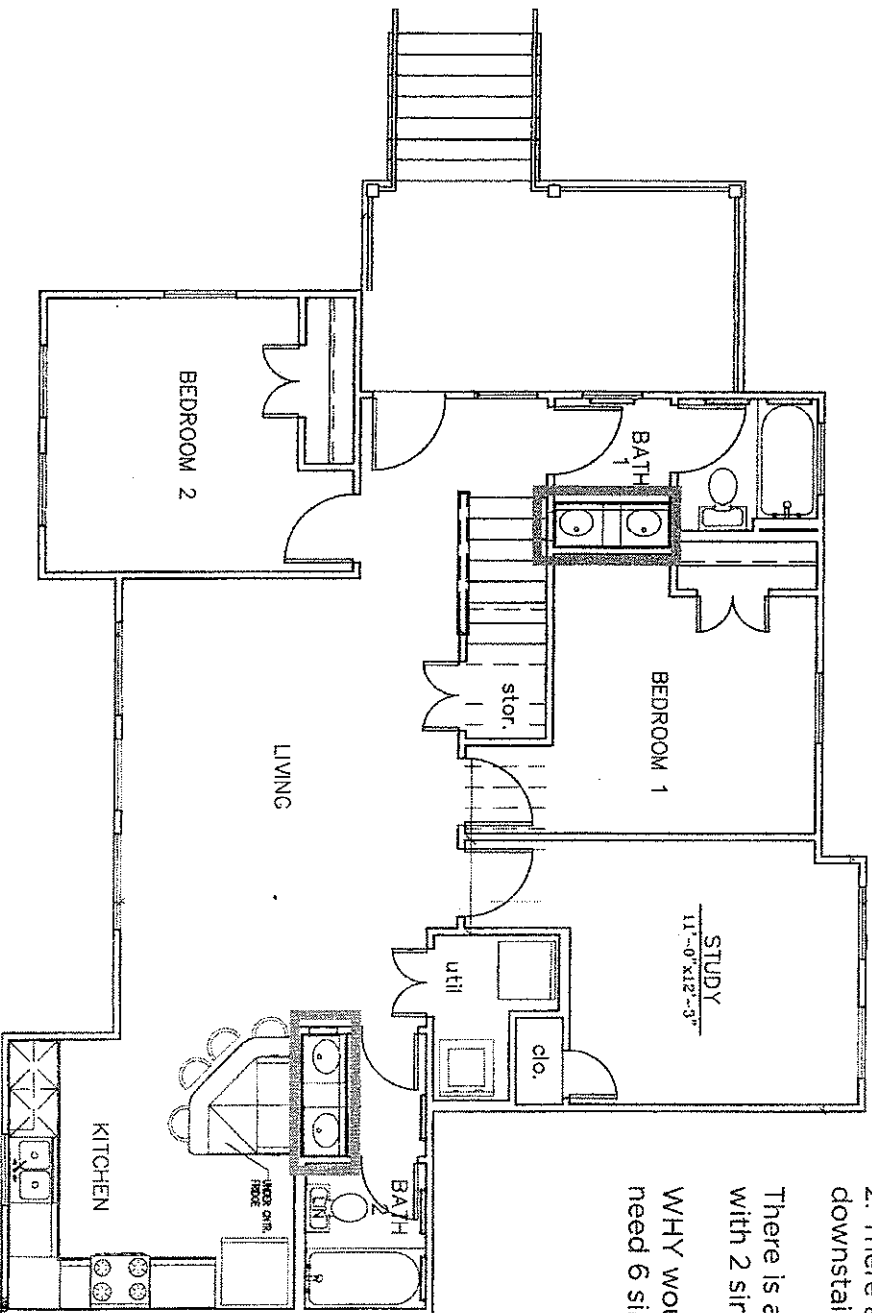
Plans for 1917 David Street (lower level for only half of the building)



1. There is a "study" with a closet just off of a bathroom.

This is really going to be a bedroom.

Plans for 1917 David Street
(lower level for only half of the building)

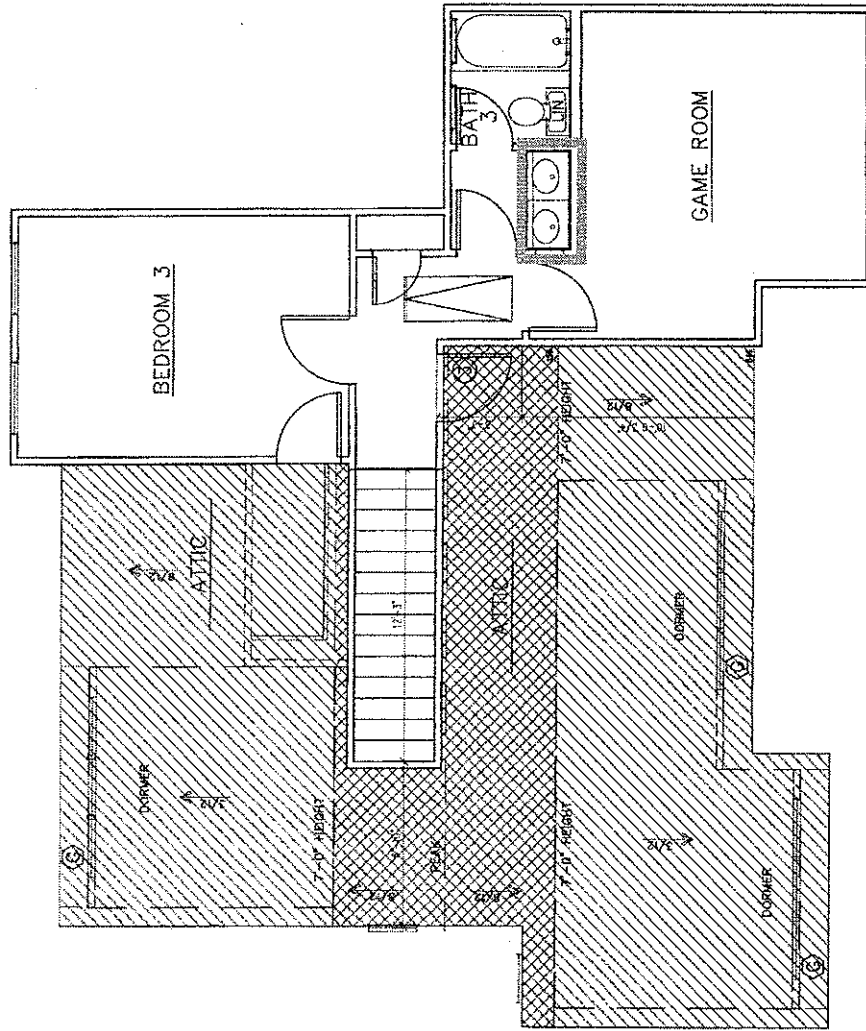


2. There are 2 full bathrooms downstairs with 4 sinks.

There is a full bathroom upstairs with 2 sinks.

WHY would just 3 people need 6 sinks?

Plans for 1917 David Street (upper level for only half of the building)



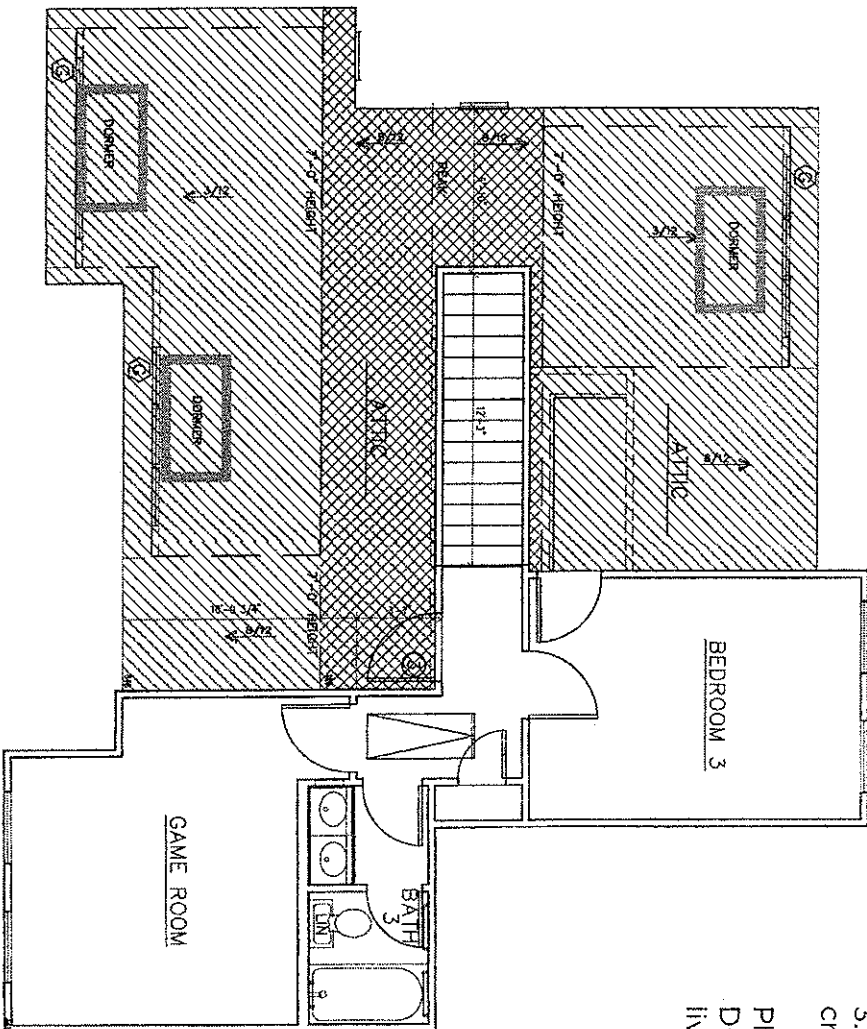
2. (continued)

There are 2 full bathrooms downstairs with 4 sinks.

There is a full bathroom upstairs with 2 sinks.

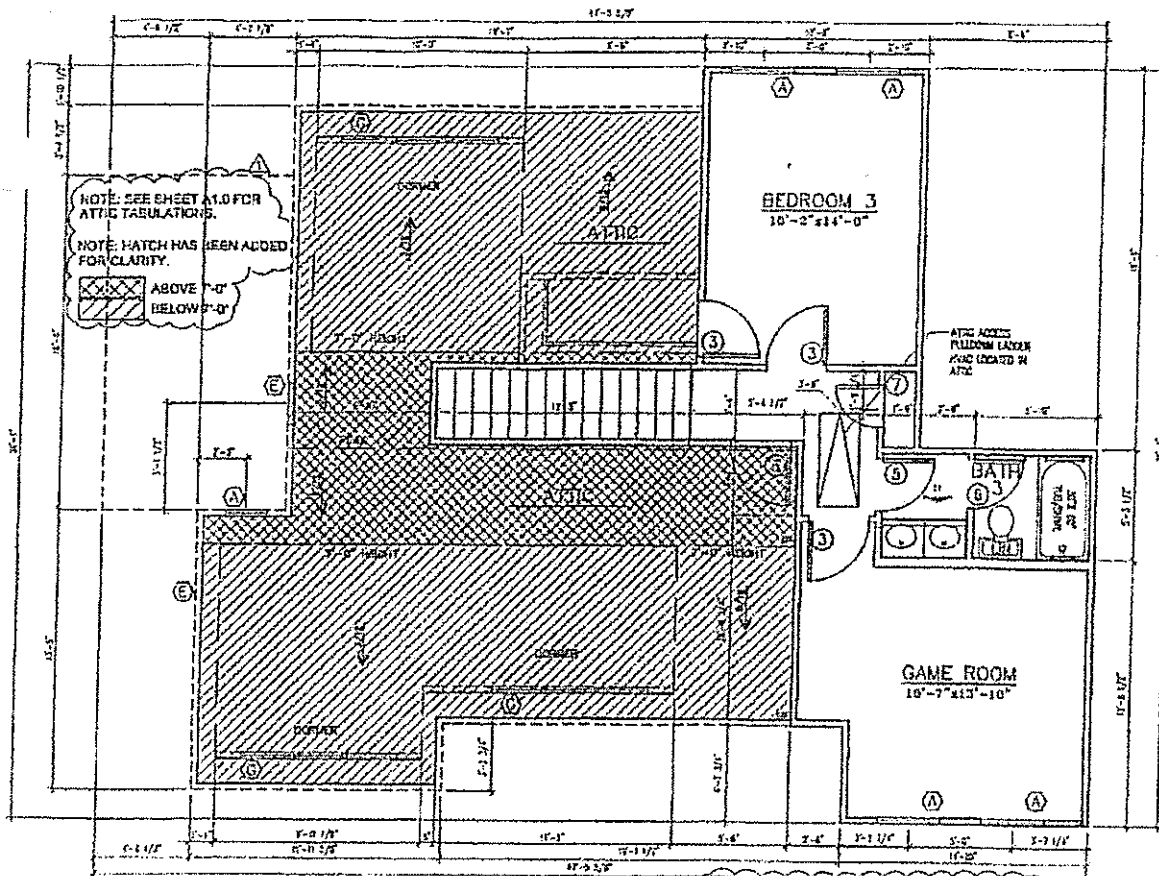
WHY would just 3 people need 6 sinks?

Plans for 1917 David Street (upper level for only half of the building)

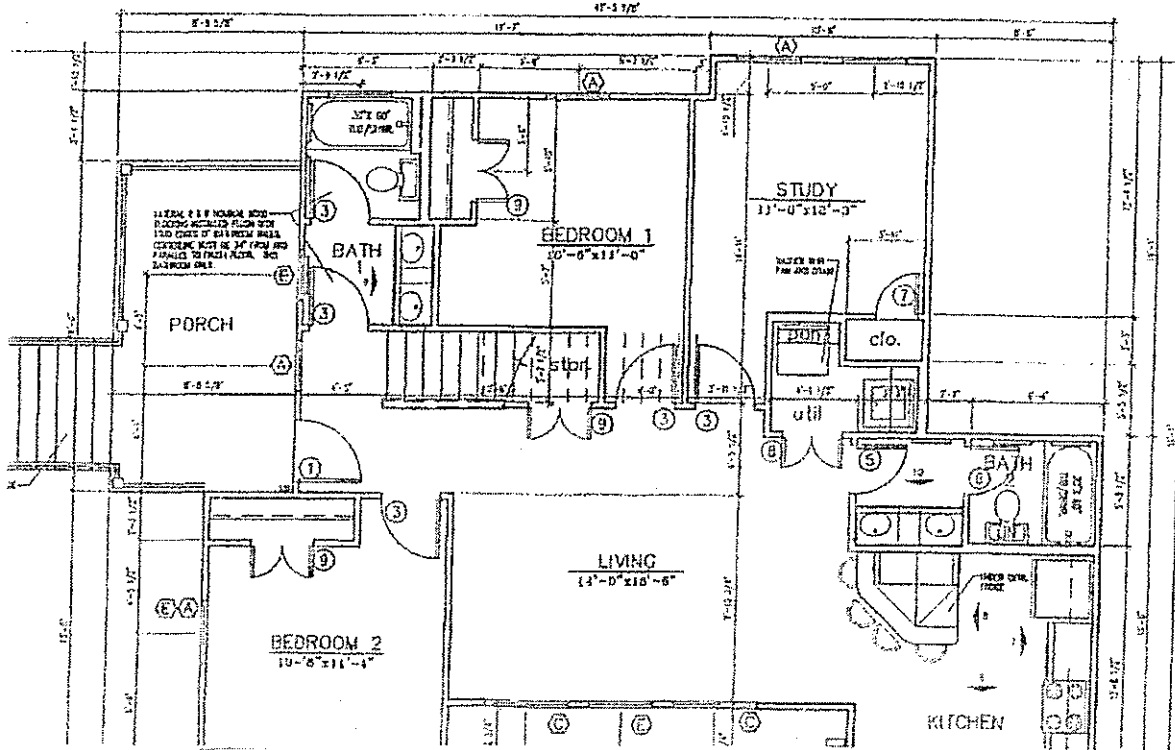


3. There is enough attic space to easily create 2 additional bedrooms.

Plus both sides of the attic have DORMERS which makes this a very livable space.



FIRST &
SECOND
FLOOR
PLANS
FOR
ONE
UNIT



SEE
BEDROOM
DIMENSIONS

Duplex exceeds .4 FAR limit, and 4,000 sq. ft. of Gross Floor Area Limit outlined in LDC 25-2-555

The project has a true storage space of 880 square feet above the second story. That space does not have permanent access, only pull down stairs. It does not have adequate height, light or ventilation, and it stores the mechanical equipment.

In addition, the structure has 1,292 square feet of space intended for human habitation. This space was not counted towards gross floor area because it was labeled as "storage". The space is served by permanent stairs, it meets habitable ceiling heights, it has enviable windows and light, and has a full electrical plan.

Attached are the code sections that speak to definition of gross floor area, and exemptions from the calculation. No part of the Land Development Code exempts the 1,292 square feet because the developer thought of labeling it as "storage".

Fire Inspection	No
Health Inspection	No
Usage Category	103
Hazardous Pipeline Review Required	No
Electric Service Planning Application?	Yes
ESPA Application Number	ris 6-17
ESPA Approval Date	Jan 6, 2012
Site has Water availability?	Yes
Site has Waste Water availability?	Yes
Site has a septic system?	No
Subject to RD&C Requirements	RESIDENTIAL DESIGN STANDARDS
Maximum FAR allowed	4
Existing 1 Fl Area	0
Existing 1 Fl Area-Ceiling Ht over 15'	0
Existing 1 Fl Area-Ceiling Ht 15' or less	0
Existing Total 1 Fl Gross Area	0
Existing 2 Fl Area	0
Existing 2 Fl Area-Ceiling Ht over 15'	0
Existing 2 Fl Area-Ceiling Ht 15' or less	0
Existing Total 2 Fl Gross Area	0
Existing 3rd Fl Area	0
Existing 3 Fl Area-Ceiling Ht over 15'	0
Existing 3 Fl Area-Ceiling Ht 15' or less	0
Existing Total 3rd Fl Gross Area	0
Existing Basement Gross Area	0
Existing Garage attached	0
Existing Garage detached	0
Existing Carport	0
Existing Total Sq Ft	0
New/Addn 1 Fl Area	2320
New/Addn 1 Fl Area-Ceiling Ht over 15'	0
New/Addn 1 Fl Area-Ceiling Ht 15' or less	2320
New/Addn Total 1 Fl Gross Area	2320
New/Addn 2 Fl Area	882
New/Addn 2 Fl Area-Ceiling Ht over 15'	0
New/Addn 2 Fl Area-Ceiling Ht 15' or less	882
New/Addn Total 2 Fl Gross Area	882
New/Addn 3 Fl Area	1292
New/Addn 3 Fl Area-Ceiling Ht over 15'	0
New/Addn 3 Fl Area-Ceiling Ht 15' or less	1292
New/Addn Total 3 Fl Gross Area	1292
New/Addition Basement Gross Area	0
New/Addition Garage attached	0
New/Addition Garage detached	0
New/Addition Carport	0
New/Addition Total Sq Ft	4494
Total Number of Driveways	00
Driveway Width 1	00
Total Number of Sidewalks	1
Certificate of Occupancy to be Issued	Yes
Code Year	2006
Code Type	International Residential Code

PROPERTY DETAILS

Number	Pre.	Street	Street Type	Dir	Suite Type	Suite Number	City	State	Zip	Legal Desc
1917		DAVID	STREET				AUSTIN	TX	78705	Lot 18 Block 2 Subdivision CARRINGTON SUBDN OUTLOT 11 26 27 28 DIV D 1895

Lot 18 Block 2 Subdivision CARRINGTON SUBDN OUTLOT 11 26 27 28 DIV D 1895

PEOPLE DETAILS

Role	Organization Name	Address	City	State	Postal	Phone
Applicant	Real Estate (Michael McHone)	PO BOX 8142	Austin	TX	78713	(512)481-9111

PROCESSES AND NOTES

Process Description	Status	Schedule Date	Start Date	End Date	Assigned Staff	# of Attempts
Residential Intake	Closed	Nov 23, 2011	Nov 23, 2011	Nov 23, 2011	Bryan Walker (974-2708)	1
Plan Review Administration	Open					0
Residential Zoning Review	Approved	Dec 28, 2011	Nov 29, 2011	Jan 6, 2012	Victor Villarreal (974-2947)	0
Trace Ordinance Review	Open				Michael Embrey (974-1876)	0
Residential Revision After Issuance	Open	Jan 6, 2012				0

FOLDER ATTACHMENT

Description Attachment

View Attachment

(43) GROSS FLOOR AREA means the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls. The term includes loading docks and excludes atria airspace, parking facilities, driveways, and enclosed loading berths and off-street maneuvering areas.

GROSS FLOOR AREA.

In this Subchapter, GROSS FLOOR AREA has the meaning assigned by Section 25-1-21 (*Definitions*), with the following modifications:

3.3.1. In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4.

3.3.2. Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter:

A. Up to 450 square feet of:

1. A detached rear parking area that is separated from the principal structure by not less than 10 feet;

2. A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either:

a. detached from the principal structure; or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width; or

3. A parking area that is open on two or more sides, if:

i. it does not have habitable space above it; and

ii. the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport.

B. Up to 200 square feet of:

1. An attached parking area if it used to meet the minimum parking requirement;
or

2. A garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either:

- a. detached from the principal structure; or
- b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width.

C. An applicant may receive only one 450-square foot exemption per site under paragraph A. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under paragraph B, but only for an attached parking area used to meet minimum parking requirements.

3.3.3. Porches, basements, and attics that meet the following requirements shall be excluded from the calculation of gross floor area:

A. A ground floor porch, including a screened porch, provided that:

- 1. the porch is not accessible by automobile and is not connected to a driveway; and
- 2. the exemption may not exceed 200 square feet if a porch has habitable space or a balcony above it.

B. A habitable portion of a building that is below grade if:

- 1. The habitable portion does not extend beyond the first-story footprint and is:
 - a. Below natural or finished grade, whichever is lower; and
 - b. Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1.a.
- 2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines.

C. A habitable portion of an attic, if:

- 1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
- 2. It is fully contained within the roof structure;

3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

3.3.4. An enclosed area shall be excluded from the calculation of gross floor area if it is five feet or less in height. For purposes of this subsection:

A. Area is measured on the outside surface of the exterior walls; and

B. Height is measured from the finished floor elevation, up to either:

1. the underside of the roof rafters; or
2. the bottom of the top chord of the roof truss, but not to collar ties, ceiling joists, or any type of furred-down ceiling.

Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093.

Group Residential Use- Plan and Arrangement of 1917 David Street

Due to the design of the structure, this building will never be occupied by a unit of related persons. There are no en-suite bathrooms, no master bedroom, significantly smaller than normal common area (25% as opposed to 40-50%), and a series of smaller than average, similarly sized bedrooms.

The Plan and arrangement is consistent with group residential use, and is incompatible with single-family neighborhood characteristics:

GROUP RESIDENTIAL use is the use of a site for occupancy by a group of more than **six persons** who are not a family, on a weekly or longer basis. This use includes fraternity and sorority houses, dormitories, residence halls, and boarding houses.

§ 25-2-57 FAMILY RESIDENCE (SF-3) DISTRICT DESIGNATION.

A duplex use that is designated as an SF-3 district is subject to development standards that maintain single-family neighborhood characteristics.

Source: Section 13-2-45; Ord. 990225-70; Ord. 031211-11.

Once built, this structure will be inhabited by 10-14 unrelated persons, and will have 6-8 cars without designated parking. That is incompatible with single-family neighborhood characteristics.

Bedroom Definition and Safety

In the vast majority of projects, the number of bedrooms in a residence is, and will continue to be irrelevant. However, the super-duplex ordinance requires a bedroom definition in order to be applied.

The spirit of the ordinance calls for any private room, with the potential to be a bedroom, to be called a bedroom. It is entirely possible that the developer of 1917 David truly intends to put nothing but pinball machines in the gamerooms. However, it is inconceivable to think that in the life of the structure, with changing tenants, and changing owners, those rooms won't eventually be used as bedrooms.

For the purposes of interpreting 25-5-555D a bedroom could reasonably be defined as any room that:

1. meets the definition for habitable space under IRC 2006 Section R202 (space to be used for living, eating, cooking, and sleeping) AND
2. meets the minimum area requirements per IRC 2006 section 304 (70 square feet, minimum 7" dimension) AND
3. is a private space or can be made private by the addition of a door AND
4. has outside door and or window which meets the minimum requirements for emergency escape

The definition proposed is in line with the LDC. Recently, the code (25-2-511) was revised to amend another section where the word "bedroom" was being circumvented. The change involved regulating any increase in square footage by 70 sq ft, instead of regulating bedrooms.

In the past, despite labels on plans, reviewers would call any room with a closet, other than a bathroom or a kitchen, a bedroom. Although we do not see the value in reverting back to that definition, we do believe reviewers should go back to actively defining spaces.

Safety- There is concern that if a definition includes a safety provision, like egress, unscrupulous developers will forgo safety in order to avoid the bedroom label. That may be a real concern, and that portion of the definition may need to be removed, or as a disincentive, a significant mandatory fine may be placed on those who risk their tenants' safety.

Regardless, no condition is more unsafe than simply turning a blind eye. By not acknowledging the true nature of a space, inspectors cannot enforce safety features like proper egress, or smoke detectors. Furthermore, large numbers of unrelated persons do not function as a unit. For that reason, group residential projects have added requirements to ensure safety. If there was honesty about the occupancy of stealth dorms, they would be classified as commercial projects and be required to have fire protection sprinklers, annual inspections, etc.

Code Compliance vs. Permitting

Some may think that this should be a Code Compliance and not a permitting issue.

We could not disagree more. Once the structure is built, it is too late.

Even if the Code Compliance Department had unlimited resources, which it does not, it is very difficult to control what happens behind closed doors.

Residential rental projects do not have annual inspections, which means an investigator would have to be "invited" in, in order to assess whether the unit was occupied in accordance with the permits, or not.

The Code Compliance History of this property, under to ownership of the current owner, shows how difficult it is to enforce occupancy issues.

The records show that investigators determined that 1917 David was an illegal fourplex in 2006. However, the property continued to be leased out five years after the initial determination was made.



City of Austin
Code Compliance Department
Summary of Complaint CC-2006-023635-ITR

COMPLAINT INFORMATION

Case Status: Closed

Address: 1917 DAVID ST 78705

Legal Description: 37% OF LOT 18 BLK 2 OLT 26-28 DIV D CARRINGTON SUBD

Property Owner(s):

Michael Said - Owner
3401 Guadalupe Street
Austin, Texas 78705

Complaint Date: January 17, 2006

Complaint: SF-3 property, house is divided into four units. No certificate-of-occupancy and incorrect zoning.

Complainant: In order to maintain open communication with the public, the record pertaining to a complainant is withheld as our standard practice unless it is anonymous or the assigned investigator. If you desire the complainant record, an open record decision for withholding this record will be requested from the Texas State Attorney General's Office.

INSPECTION INFORMATION

Investigator Assignment(s)

assigned on June 1, 2006

Transferred to Jason Crouch on March 16, 2007

Case Log

DATE	STAFF NAME	ACTION TAKEN
01/17/2006		Information Update
Conducted An Initial Inspection of the Property. Inspector's Comments: "Only saw two units. Research"		
01/24/2006		Follow-up Inspection
Conducted A Follow-Up Inspection of the Property. Inspector's Comments: "Called phone number on Lease sign. I was informed by caller that the home was actually a foupplex. Send NOV"		
01/24/2006		Insp / Violation(s) Found
MIGRATED		
02/01/2006		Administrative Support Action
Inserts a tracking notice comment for date executed. Inspector's Comments: "Certified tracking notice has been delivered."		
03/07/2006		Follow-up Inspection
Conducted A Follow-Up Inspection of the Property. Inspector's Comments: "Violation still exists, monitor."		
03/29/2006		Follow-up Inspection
Conducted A Follow-Up Inspection of the Property. Inspector's Comments: "Took photographs of violation,		

Investigator Lopez called realtor. Rshelly Marman the Realtor informed Lopez that there are currently 6 units at this office. Markman stated that a 1 bedroom 1 bath leased for \$775.00 a month."

03/30/2006

Information Update

Information Update and research results. Inspector's Comments: "Prepare case for MC"

06/05/2006 David Cancialosi

Follow-up Inspection

Conducted A Follow-Up Inspection of the Property. Inspector's Comments: "1917 David St: Illegal 4 plex. No permit history. Detached units behind main structure obviously newer construction. This may actually be a triplex instead of 4 plex. Main structure looks like one unit. However, see previous notes indicating 6 plex from realtor (3/29/06)

Pictures below are of adjacent unit, abatement case should be initiated. Can barely see house behind weeds. Believe it is 1919 David St. Also, may be illegal 5 or 6 plex! There are 4 units in a detached structure with alley access behind this structure."

07/11/2006 David Cancialosi

Administrative Support Action

Performed An Administrative Duty Related to Processing the Case. Inspector's Comments: "need to prepare for MC. 15 day extension to discontinue illegal use expired Feb. 8, 2006."

11/13/2006 David Cancialosi

Follow-up Inspection

Conducted A Follow-Up Inspection of the Property. Inspector's Comments: "violation still exists. Submitting for court this week. Taking up to date pictures."

02/05/2007 David Cancialosi

Information Update

emailed ADM Paul T to see if he wants this to be kept open - I have compiled information for approximately ten cases of possible violations at multiple addresses on the 1900 Block of David St. This case was assigned to Enrique Lopez in Feb 2006. After more research, I gave stack of ten files to Paul T a couple weeks ago for his review to see if he would like to distribute to other inspectors.

Violation still exists at this location.

02/12/2007 David Cancialosi

Information Update

Paul T says to keep this case opened:

Yes, keep both open and will have the team work on them and get them reassigned.

Thanks

Paul Tomasovic

West District

Assistant Division Manager

Code Enforcement

974-2738

Fax 974-9049

From: Cancialosi, David
Sent: Monday, February 05, 2007 9:50 AM
To: Tomasovic, Paul
Subject: RE: David St cases

Also have a case at 1917 David St assigned to Enrique from February 2006 then passed on to me. Looks like he may have submitted for MC, but notes do not indicated any court action. Keep this open as well?

The original case below was 1902 David St.

I believe both addresses were included in the stack of David St. files given to you.

02/14/2007 David Cancialosi Information Update
Need to transfer this case to Jason Crouch

02/16/2007 Jason Crouch Follow-up Inspection
Reviewed case file and site conditions with David C. Current photos on file. It appears notice has already been sent and that David intended to send this to court, but I need the hard copy file now that this case has been assigned to me.

There are clearly 4 separate units A-D, with the D unit occupying the entire rear accessory structure. This is in violation of SF-3 zoning. Will review with Cancialosi as he intended to send this to court as of 11/13/06.

02/23/2007 Paul Tomasovic Follow-up Inspection
E-mail from and to complainant---->Tressie,
Our inspectors are working on violations along David Street and are preparing the 1917 David Street case for legal action. This case is under review and should be forwarded to our legal coordinator by the 2nd week in March. From reviewing the inspector's case log there are clearly 4 separate units A-D, with the D unit occupying the entire rear accessory structure. We will move forward with legal action to obtain compliance.
Jason,
Please see e-mail correspondence below for additional information related to this case.

Thanks
Paul Tomasovic
West District
Assistant Division Manager
Code Enforcement
974-2738
Fax 974-9049-----

From: DCARRIAGEHOUSE@aol.com [mailto:DCARRIAGEHOUSE@aol.com]

Sent: Thursday, February 22, 2007 9:08 AM
To: Tomasovic, Paul
Subject: 1917 David

Mr. Paul Tomasovic:

Good morning. Paul, what is the status of the property at 1917 David? The house is divided into four units (A, B, C, & D). We keep getting requests for parking permits, however, we don't want to give out more permits than legally allowed on the property. I have names and telephone numbers of two of the tenants if you need to contact them for verification. According to two of the tenants (Bertha in Unit A and Carolyn in Unit B), there are four units and seven tenants in the property (two people in Unit A, one person in Unit B, two people in Unit C, and two people in Unit D). Didn't zoning contact the owner about this previously? Some of the tenants are new and just moved in.

As always, thank you for your help.

Tressie

Caswell Heights Neighborhood
(previously West University Neighborhood)
476-4755

02/26/2007 Jason Crouch Follow-up Inspection
Current photos on file, clearly operating as a 5-plex.

02/27/2007 Jason Crouch Owner Contacted
NEW Owner Michael Said responded to my posting of the legal notice:

1917 David is under new ownership - Mr. Michael Said 479-9922 and 789-6543 (cell) is the new sole owner, however TCAD currently shows the property as joint-owned with 37% owned by Said and the other 63% owned by previous owner Hymen Frankel.

Mr. Said advised he bought the property 6 months ago and was never advised this was in violation of city code. I am working with Paul-ADM and David C. to get all the research check points covered. I will add new owner to the people file and re-post notice with current ownership info.

New owner will have to either discontinue the use or possibly go for amnesty CO, still researching.

03/08/2007 Jason Crouch Information Update
Made request of Armando to add new owner to People records.

03/12/2007 Jason Crouch Owner Contacted
Left detailed message for new owner Michael Saad, await call back. During call back, he requested me to send the notice.

03/19/2007 Jason Crouch Send CV Notice

03/20/2007 Jason Crouch Follow-up Inspection
Still operating as a 5-plex.

04/06/2007 Jason Crouch Owner Contacted
Left message for owner Michael Saad to contact me regarding remedy.

04/12/2007 Jason Crouch

Owner Contacted

I advised owner via phone that he must consult the permit center today: he needs proper CO for the accessory structure and will need a building permit to remove all partitions in the primary structure, advised I will push this to Municipal Court if no action is taken to correct violation within 7 days.

He will advise me of his permit center meeting.

04/30/2007 Jason Crouch

Follow-up Inspection

Current photos on file, still operating as a 5-plex.

05/01/2007 Jason Crouch

Owner Contacted

Mike McCone is owner Michael's consultant and has advised him to go for amnesty CO. I advised him to get that process going as this case is approaching 5 months old. He will have McCone contact me and will also contact the DAC for amnesty CO application process.

05/15/2007 Jason Crouch

Owner Contacted

Working with Saad and McCone, advised them to get an application for Amnesty CO on file within the week. Saad can provide C of A utilities records dated back to 1960 showing that power has gone to 3 separate units since that time.

06/14/2007 Jason Crouch

Information Update

No Amnesty CO on file, will contact owner last time.

06/27/2007 Jason Crouch

Closed due to Administrative Reasons

Duplicate 06 02635.

VIOLATIONS

Land Use

Austin City Code Section: Single Family Residential & Multi-Family District (§25-2-771)

Violation: PERMITTED, CONDITIONAL AND PROHIBITED USE(section 25-2-491) (Structure: Premises) -

Current zoning does not allow for this dwelling to be used as a four-plex.

Date Observed: 01/24/2006 Status: Released

Structure Maintenance

NOTICES

Notice of Violation to Michael Said (Owner)

Mail sent regular on March 21, 2007

Mail sent certified 7005 3110 0002 4208 6726 on March 21, 2007

Received / signed by M. Weber on April 3, 2007



City of Austin

Founded By Congress, Republic of Texas 1839
Code Compliance Department
P.O. Box 1088, Austin, Texas 78767 - 1088

December 10, 2009

NOTICE OF VIOLATION

via Certified Mail #7007 2560 0001 7116 4580

Michael Said
3401 Guadalupe St
Austin, Texas 78705-1321

RE: 1917 DAVID ST 78705

Legally described as LOT 18 BLK 2 OLT 26-28 DIV D CARRINGTON SUBD
Zoned as SF-3-CO-NP
Parcel Number 0113001220

Dear Michael Said:

An investigation by the City of Austin's Code Compliance Department was conducted relating to the property indicated above and violations of Austin City Code were found that require your immediate attention. An investigation report is enclosed which defines the code violation(s) found with required remedies for attaining compliance with the City Code.

After receipt of this notice, you may not sell, lease, or give away this property unless you have provided the buyer, lessee, or other transferee a copy of this notice, and provided the name and address of the buyer to the Building Official. Also, it is a misdemeanor to rent this property if the code violation(s) on this property pose a danger to the health, safety and welfare of the tenants.

If you have any questions, please contact me by telephone at (512)974-6428 between 7:30AM - 4:00PM. You may leave a voicemail message at any time.

Si usted tiene alguna pregunta, contácteme por favor por teléfono en (512)974-6428 de lunes a viernes o puede dejar un mensaje de correo vocal en cualquier momento.

Ownership Information

According to the real property records of Travis County, you own the real property described in this notice. If you no longer own this property, you must execute an affidavit stating that you no longer own the property and stating the name with the last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to our office not later than the 20th day after the date you receive this notice. If you do not submit an affidavit, it will be presumed that you own the property described in this notice, even if you do not.

An affidavit form is available at our office located at 1520 Rutherford Lane. An affidavit may be mailed to:

City of Austin
Code Compliance Department
P.O. Box 1088
Austin, Texas 78767

Additionally, if this property has other owner(s), please provide me with this information.

Failure to Correct

If a violation is not corrected, any existing site plan, permit, or certificate of occupancy may be suspended or revoked by the City. If the site plan, permit or certificate of occupancy is suspended or revoked, the utility service to this property may be disconnected.

If the violation continues, the City may take further legal action to prevent the unlawful action as authorized by State law and may seek civil injunctions or penalties in State court.

For dangerous or substandard buildings, the City may also take further action to require the vacation, relocation of occupants, securing, repair, removal or demolition of a building.


If the violations are not brought into compliance within the timeframes listed in the investigation report, criminal charges may be filed against you in the City of Austin Municipal Court subjecting you to fines of up to \$2,000 per violation, per day.

Complaints

To register a complaint regarding a Code Compliance Department investigator, you may submit your complaint in writing no later than 3 days after receipt of this letter to:

City of Austin
Code Compliance Department Manager
P.O. Box 1088
Austin, Texas 78767

Sincerely,


Doug Baggett, Code Enforcement Inspector
Code Compliance Department
Case CV-2009-135900

INVESTIGATION REPORT

Investigator: Doug Baggett
Case: CV-2009-135900
Address: 1917 DAVID ST 78705
Zoned as SF-3-CO-NP

The item(s) listed below are in violation of the Austin City Code. A required remedy may be specified after a violation and may include a time period for compliance. If no required remedy is specified for a violation, the **Required Remedy Summary** will be in effect. For questions concerning residential property, please contact the Zoning Review Division at (512) 974-2380. For questions concerning commercial property, please contact the Development Assistance Center (DAC) at (512) 974-6370.

LAND USE

Code Section: Building Permit Requirement (§25-11-32)
Description of Violation: Construction of a four-plex in an SF-3 zoned neighborhood was performed without required permit(s).
Date Observed: December 10, 2009
Required Remedy:

Code Section: Permitted, Conditional, and Prohibited Uses (§25-2-491)
Description of Violation: Triplex and/or four-plex structures are prohibited in a SF-3 zoning district.
Date Observed: December 10, 2009 Status: Not Cleared
Required Remedy:

Required Remedy Summary

Obtain a Permit in 30 days
Discontinue prohibited use in 30 days.

NOTE: The time period(s) indicated in this summary reflect the total time allowed for compliance. A time period indicated in an individual violation's required remedy is the actual time allowed for compliance of that individual violation. If no time period is indicated in an individual violation's required remedy, the summary time period associated with the required remedy will be the time allowed for compliance.

Appeal

No appeal is available for land use issues. However, a person may appeal a Stop Work Order to the City of Austin's Building Official. A written appeal must be filed no later than 3 days after the posting of the Order and contain:

- the name and address of the appellant;
- a statement of facts;
- the decision being appealed; and
- the reasons the decision should be set aside.

An appeal may be delivered in person to the Office of the Director of the Planning and Development Review Department located at 505 Barton Springs Road or mailed to:

Building Official
Planning and Development Review Department
P.O. Box 1088
Austin, Texas 78767

Stealth Dorms, a City wide concern

As land becomes more expensive in areas close to the University of Texas, stealth dorms are becoming a devastating problem in areas not traditionally targeted for student housing.

The Northfield neighborhood, in the North Loop area, has started tracking stealth dorms. Their position paper can be found on-line:

<http://www.northfieldna.org/StealthDormsinNorthfieldNeighborhood.pdf>

Their database now has more than 50 properties listed.

North Loop Area

5100 Caswell Ave
Austin, TX 78751
Austin, TX 78751

5102 Caswell Ave
Austin, TX 78751
Austin, TX 78751

5104 Caswell Ave
Austin, TX 78751
Austin, TX 78751

Premium Recording Service
5315 Duval St
Austin, TX 78751
Austin, TX 78751

5401 Duval St
Austin, TX 78751
Austin, TX 78751

5402 Duval St
Austin, TX 78751
Austin, TX 78751

5501 Duval St
Austin, TX 78751
Austin, TX 78751

5503 Duval St

Austin, TX 78751
Austin, TX 78751

5517 Duval St
Austin, TX 78751
Austin, TX 78751

5304 Evans Ave
Austin, TX 78751
Austin, TX 78751

5401 Evans Ave
Austin, TX 78751
Austin, TX 78751

5401 Evans Ave
Austin, TX 78751
Austin, TX 78751

5403 Evans Ave
Austin, TX 78751
Austin, TX 78751

5405 Evans Ave
Austin, TX 78751
Austin, TX 78751

5407 Evans Ave
Austin, TX 78751
Austin, TX 78751

5407 Evans Ave
Austin, TX 78751
Austin, TX 78751

5408 Evans Ave
Austin, TX 78751
Austin, TX 78751

5409 Evans Ave
Austin, TX 78751
Austin, TX 78751

108 Franklin Blvd
Austin, TX 78751
Austin, TX 78751

5100 Guadalupe St
Austin, TX 78751
Austin, TX 78751

5204 Martin Ave
Austin, TX 78751
Austin, TX 78751

5208 Martin Ave
Austin, TX 78751
Austin, TX 78751

5402 Martin Ave
Austin, TX 78751
Austin, TX 78751

5404 Martin Ave
Austin, TX 78751
Austin, TX 78751

5405 Martin Ave
Austin, TX 78751
Austin, TX 78751

5408 Martin Ave
Austin, TX 78751
Austin, TX 78751

311 Nellay Blvd
Austin, TX 78751
Austin, TX 78751

401 Nellay Blvd
Austin, TX 78751
Austin, TX 78751

408 Nellay Blvd
Austin, TX 78751
Austin, TX 78751

530 N Loop Blvd
Austin, TX 78751
Austin, TX 78751

504 N Loop Blvd
Austin, TX 78751
Austin, TX 78751

602 W North Loop Blvd
Austin, TX 78751
Austin, TX 78751

615 W North Loop Blvd
Austin, TX 78751
Austin, TX 78751

304 Zennia St
Austin, TX 78751
Austin, TX 78751

305 Zennia St
Austin, TX 78751
Austin, TX 78751

307 Zennia St
Austin, TX 78751
Austin, TX 78751

Walker, Susan

From: Adam Stephens [Adam.Stephens@capstarlending.com]
Sent: Monday, April 16, 2012 3:01 PM
To: Walker, Susan
Cc: 'Lin Team'
Subject: C15-2012-0044

To: Chair Jeff Jack and Board of Adjustment Members
Re: 1917 David Street interpretation appeal C15-2012-0044

Dear Chairman Jack:

We, CANPAC, write to you as a group of seven neighborhoods surrounding the University of Texas to express our support of the appeal filed by the Original West University Neighborhood Association. Our neighborhoods voted unanimously in support of the interpretation offered on the appeal application for your evaluation on the April 19th hearing.

Rooming houses under the guise of single family projects are tearing at the fiber of our fragile neighborhoods. As you may remember, CANPAC led the effort to create greater density through the creation of the University Neighborhood Overlay, in exchange for protection intended to preserve our historically rich area.

Although it is a problem throughout our City, we see our neighborhoods as particularly vulnerable. Developers are looking to your ruling and interpretation to see if the Super Duplex ordinance is to be ignored or applied.

We urge you to:

- 1) Uphold the three bedroom per side of a duplex limit.
- 2) Direct staff to apply the FAR exemptions as written in the Land Development Code
- 3) Direct staff to identify 1917 David street as meeting the LDC definition for a "rooming house" and as such, incompatible with SF-3 zoning.

Sincerely,

Adam Stephens
Co-Chair, CANPAC (Central Austin Neighborhood Planning Advisory Committee)

4/17/2012

Walker, Susan

From: Lin Team [lteam@austin.rr.com]
Sent: Saturday, April 14, 2012 10:38 AM
To: Walker, Susan
Subject: Super-Duplexes

April 14, 2012

Susan Walker, BOA Staff Liaison
 Planning Development and Review Department
 505 Barton Springs Rd
 Austin, Texas 78704

C15-2012-0044

Subject: Effects of Super-Duplexes on surrounding property values

Dear Ms Walker,

In my practice of real estate in Central Austin, I have had occasion to observe the unfortunate effects of what we call "stealth dorms" and "super duplexes" over the past fifteen years. My first observation was when a two bedroom one-bath cottage at 705 East 32nd Street was turned into six bedrooms, on a street that allows no parking at any time. Cars were parked in the front yard, and the entire rear yard was paved for parking. I listed the house next door at 703 East 32nd, and the effects on the price of that property were in the range of \$50,000-\$60,000 less than we could have obtained otherwise.

There are many similar examples in which a quiet residential neighborhood was "slummed down" in property values due to inappropriate expansion of existing buildings. However, the most egregious case so far has been the construction in 2001 of a new duplex at 3500 Duval Street. The property has 12 bedrooms, with two attached garages that have consistently been used for game rooms rather than parking. Large vehicles are often parked on the grass, and adjacent properties have their on-street parking usurped by the large vehicles owned by tenants of 3500 Duval. One house away from the Super Duplex, some home owners had lovingly restored and added onto their home and were happily raising two small boys. They engaged me to sell their home so they could escape the nightmare of living next to that situation. In my opinion, the existence of that neighboring property cost my clients \$75,000 on the price that we were able to obtain for their house.

I have not done research on the effects on property values of the invasion of inappropriately-sized rental properties, but it is obvious to me that there is substantial loss to the assets of adjacent property owners, and consequently to the tax values of their now-blighted properties.

Some rules have changed since 2001, but so far nothing has effectively stopped investors from invading residential neighborhoods to build massive structures that ruin the quality of life for the surrounding neighbors. I urge you to take this into account when addressing the concerns and questions being raised about how to prevent such travesties on our neighborhoods.

Sincerely,

Linda B. Team



LIN TEAM
 Old Austin Realtor®
 o: 512.472.1930 m: 512.917.1930
 lteam@austin.rr.com



KINNEY COMPANY
 REAL ESTATE
 THEKINNEYCOMPANY.COM

4/17/2012

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.ci.austin.tx.us/development.

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2012-0044 - 1917 David Street
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, April 19th, 2012

Lacy Ballist, Soni Anderson
Your Name (please print)

1913 Cliff St, Austin TX 78705
Your address (es) affected by this application

Signature

Date

Daytime Telephone: 512-610-6600

Comments: Based on the information we have obtained we have not a mere residential duplex, but rather a "syner duplex" prohibited under Austin Land Development Code. This type of expanded use is not appropriate due to parking and related impacts.

Philly Bullen, agent

If you use this form to comment, it may be returned to:
City of Austin-Planning & Development Review Department/ 1st Floor
Susan Walker
P. O. Box 1088
Austin, TX 78767-1088

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Case Number: C15-2012-0044 – 1917 David Street
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, April 19th, 2012

Fressie Damron
Your Name (please print)

1110 W. 22nd St.

Your address (es) affected by this application

1114 W. 22nd St

Signature

Date

Daytime Telephone: 512-476-4755

Comments:

Caswell Heights Neighborhood
Caswell Assn. wishes to receive
all data regarding this
proposed project.

I support Ms. Zaragosa's
request. Damron

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor
Susan Walker
P. O. Box 1088
Austin, TX 78767-1088



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Case Number: C15-2012-0044 – 1917 David Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, April 19th, 2012

PATRICIA A VAN ELS

Your Name (please print)

1204 W 22ND ST

Your address (es) affected by this application

Patricia A. Van Els 4-11-12

Signature

Date

Daytime Telephone: 512 407 9838

Comments: I am a member of Caswell

membership Assoc.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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Case Number: C15-2012-0044 - 1917 David Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, April 19th, 2012

ASON DUBLAN
Your Name (please print)



1913 CLIFF ST #2 41911 CLIFF ST #1
Your address (es) affected by this application

[Signature]
Signature

Daytime Telephone: (512) 913-5987

Date

4/13/12

Comments: The owner/developer of

1917 DAVID ST is clearly attempting

to circumvent neighborhood codes/

zoning and mislabelling excessive

bedrooms as studies, etc in an

attempt to create a "stealth dorm."

This immediately degrades my

neighborhood full of families,

children, professionals, & retirees.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

PUBLIC HEARING INFORMATION

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Case Number: C15-2012-0044 – 1917 David Street
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, April 19th, 2012

Ann Mowat
 Your Name (please print)

1204 W. 22¹/₂ St

Your address (es) affected by this application

Susan Walker

Signature

Daytime Telephone: 512-762-6521

Date

4/13/2012

Comments:

Please insure accurate
interpretation of the super
duplex ordinance
We will have to live with this
structure during my decade
if this permit is allowed

If you use this form to comment, it may be returned to:

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 Susan Walker
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 Austin, TX 78767-1088



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Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, April 19th, 2012

LYMAN LABRY

Your Name (please print)

1113 W 22ND STREET

Your address (as reflected by this application)

Susan Walker

Signature

Daytime Telephone: **512-305-9109**

Date

APRIL 10, 2012

Comments:

I AM DEEPLY CONCERNED ABOUT THE CIRCUMVENTION OF THE CODE BY THE MISLABELING OF BEDROOMS. I SUPPORT THE APPLICANTS INTERPRETATION OF THE CODE AND THE APPEAL.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor
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 P. O. Box 1088
 Austin, TX 78767-1088



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Case Number: C15-2012-0044 – 1917 David Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, April 19th, 2012

Dr. Ted Hall

Your Name (please print)



1908 Cliff St.

Your address (as affected by this application)

[Signature]

Signature

4-11-12

Date

Daytime Telephone: *512-337-8555*

Comments: *I ask forward to the day when staff can interpret the code with common sense as developers and agents stop bypassing rules and create their own. I support the interpretation of the Applicant and disagree with that of the developer & staff.*

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor
Susan Walker
P. O. Box 1088
Austin, TX 78767-1088

The Lear Company
2108 W. Ben White Boulevard
P.O. Box 163662
Austin, TX 78716
(512)329-8290

4/17/2012

Board of Adjustment
Chairman Jeff Jack

RE: 1917 David St, Austin, TX

Chairman:

I have reviewed plans submitted to me in regard to the property to be built at 1917 David St., Austin, TX, Lot 18, Block 2, Carrington Subdivision. It was requested for me to observe the plans to offer my professional opinion as a real estate appraiser in regard to objectively observed bedrooms. I would conclude that the plans clearly indicate exceeding the three (3) bedroom per unit duplex limit.

Please find attached my qualifications, as well as a copy of my state certification.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Lear", with a long, sweeping horizontal line extending to the right.

Ted Lear, SRA
TX-1321124-G

Texas Appraiser Licensing and Certification Board

P.O. Box 12188 Austin, Texas 78711-2188

Certified General Real Estate Appraiser

Number: TX 1321121 G

Issued: 06/07/2011

Expires: 06/30/2013

Appraiser: TED NORMAN LEAR

Having provided satisfactory evidence of the qualifications required by the Texas Appraiser Licensing and Certification Act, Texas Occupations Code, Chapter 1103, is authorized to use this title, Certified General Real Estate Appraiser.


Douglas E. Oldmixon
Commissioner

A RESUME OF THE QUALIFICATIONS OF TED N. LEAR

My name is Ted Lear and I am an independent real estate appraiser and owner of The Lear Company, a real estate appraisal and consulting firm with offices at 2108 W. Ben White Boulevard, Austin, Texas. I have been actively engaged in the appraisal of real estate since 1983, after receiving my degree from the University of Texas. I have had the privilege of developing experience in the appraisal and analysis of multiple types of properties. Before opening my own office, I managed the residential appraisal department of Sayers & Associates, Inc. I have spent 100% of my career time appraising during the past 28 years.

Designations

SRA designation – Appraisal Institute (Senior Residential Appraiser)

State Certification

General Real Estate Appraiser - Certificate Number: TX-1321121-G

Employment History

Sayers & Associates	7/83 - 1/95
The Lear Company	1/95 - Present

Education and Memberships

University of Texas; BBA, Petroleum Land Management, 1983
Appraisal Institute-SRA Member

I am up to date regarding all ongoing education requirements. In addition to state licensing course requirements every two years, I am required to submit evidence of 100 hours of classwork every five years for the Appraisal Institute.

Experience, Types of Appraisal Work Performed

The bulk of my workload is appraisals performed for mortgage lending purposes (both resale and new construction). In addition to these type appraisals, I also have many years experience appraising properties for the purpose of litigation. My experience goes beyond the valuation process, but also into the process of court testimony. I also provide services to property owners, developers, and other prospective purchasers in a consultant role, as well as that of the appraiser. My experience also encompasses both proposed and developed properties.

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Case Number: C15-2012-0044 – 1917 David Street
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, April 19th, 2012

Beverly Stringer
 Your Name (please print)

1917 David St.

Your address (es) affected by this application

Beverly Stringer 4/19/12
 Signature Date

Daytime Telephone: 512 497 7544

Comments: Support comments of
Ms. Zaragoza.

If you use this form to comment, it may be returned to:
 City of Austin-Planning & Development Review Department/ 1st Floor
 Susan Walker
 P. O. Box 1088
 Austin, TX 78767-1088

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
INTERPRETATIONS
PART I: APPLICANT'S STATEMENT
(Please type)

C15-2012-0044
ROW-10738648
RECEIVED

JAN 24 2012

CITY OF AUSTIN

TP-0113001220

STREET ADDRESS: 1917 David Street, Austin Texas 78705

LEGAL DESCRIPTION: Subdivision -

LOT 18 BLK 2 OLT 26-28 DIV D CARRINGTON SUBD

Lot (s) 18 Block 2 Outlot 26-28 Division Carrington
Subdivision

ZONING DISTRICT: SF-3

I/WE Nuria Zaragoza on behalf of myself/ourselves as
authorized

Agent for _____ affirm that on 23rd

Day of January, 2012, hereby apply for an interpretation hearing before the Board of
Adjustment.

Watershed Protection and Development Review Department interpretation is:

Re: 2011-106377PR

- 1) The project does not exceed the LDC limitations placed on duplexes outlined on 25-2-555 D.
- 2) The attic space meets the exempt attic requirements outlined on 25-2, Subchapter F, Article 3, 3.3.3
- 3) The project meets the duplex requirements outlined on 25-2-773 (D).
- 4) The proposed project is compatible with SF-3 use.
- 5) The FAR of the project is .399, thus complies with the FAR limits for SF-3 zoning.
- 6) The project complies with 25-6-655 Appendix A
- 7) The project complies with 25-2-981, Subchapter C, Article 9

I feel the correct interpretation is:

- A) The project exceeds the LDC limitations placed on duplexes outlined on 25-2-555 D. It has 10 bedrooms, and with 4494 sq. ft. it exceeds the 4000 square foot limit.
- B) The attic space does not meet the exempt attic requirements outlined on 25-2, Subchapter F, Article 3, 3.3.3. The habitable space adds mass and is not fully contained within the roof structure.
- C) The project does not meet the duplex requirements outlined on 25-2-773 (D). It does not have a common roof, only share a section of a roof, and the common wall length does not meet the 50% criteria as measured from front to back.
- D) The project is not compatible with SF-3 use. It is clearly designed for group residential use as defined in the LDC 25-2-3 (5)
- E) At the time of the submittal of this appeal, the FAR was not calculated accurately. It is reported at .399. Properly calculated, it exceeds the .4 limit.
- F) With 10 bedrooms, the project required 8 parking spaces per 25-6-655 Appendix A. With 4 parking spaces, the project does not meet the requirements.
- G) With the 10 bedrooms, the project needs to comply with the landscaping requirements outlined in 25-2-981. It does not.

NOTE: The board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable findings statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:

A) The project has 10 bedrooms, thus exceeds the number of bedrooms allowed under LDC 25-2-555 D

(D) This subsection applies to a duplex residential use.

(1) On a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms.

The limit was placed in 2003 as a remedy for the "super duplex", and its devastating effects on neighborhoods. It was passed by Council with these words:

The Council finds that the regulations in this ordinance are necessary to ensure that a duplex residential use is not established unless it is compatible with other nearby land uses. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety

Although some of the bedrooms are not accurately labeled, this structure has a total of 10 bedrooms, plus 1292 sq. ft. of potentially habitable "storage space". This "storage space" will be created at great expense, through the extensive use of dormers, and two full sets of stairs.

The ten bedrooms will be served by 6 full bathrooms, with a total of 12 lavatory sinks.

The vast majority of projects are unaffected by bedroom counts. There are some instances, however, when the number of bedrooms needs to be calculated. This is the case with 25-2-555. If the City is going to regulate based on bedrooms counts, it is unreasonable for reviewers to refuse the authority to make that determination. At this point, reviewers simply read what is written on a plan. The process is based on the "honor system". Real Estate professionals, appraisers, habitually determine what is a bedroom and what is not a bedroom. Any of them would report that this project exceeds six bedrooms.

For the purposes of interpreting 25-5-555D, and not allowing this project to re-start the "super duplex" practice, a bedroom could reasonably be defined as any room that:

- meets the definition for habitable space under IRC 2006 Section R202 (space to be used for living, eating, cooking, and sleeping) AND
- meets the minimum area requirements per IRC 2006 section 304 (70 square feet, minimum 7" dimension) AND
- is a private space or can be made private by the addition of a door AND
- has outside door and or window which meets the minimum requirements for emergency escape

To reiterate, the vast majority of projects would be unaffected by a bedroom definition. For those projects where the number of bedrooms trigger a regulation, common sense design variations would ensure reasonable use, while preventing bad actors from exploiting the land Development Code and the neighborhoods that have to live with their projects.

For example, on this project the game rooms are fully enclosed private spaces. A game room, truly intended to be a game room, would likely meet all the above mentioned criteria except that of privacy. Offices could have windows that deviate from the egress requirements.

At this time, due to the inclusion of the potentially habitable attic as square footage, the project exceeds the 4,000 sq ft maximum square footage for a duplex on a lot less than 10,000sq. ft.

B) The attic space does not meet the exempt attic requirements outlined on 25-2, Subchapter F, Article 3, 3.3.3

The permit at this time states that "each unit has space at the highest floor which is exemptible under 25.2 subchapter F." We reserve the right to appeal this if not addressed by the time of the hearing. More information will be provided, if the exemption remains on the permit.

C) The project does not meet the duplex requirements outlined on 25-2-773 (D)

(D) The two dwelling units are subject to the following requirements:

(1) The two units must have a common floor and ceiling or a common wall, which may be a common garage wall, that:

(a) extends for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot; and

(b) maintains a straight line for a minimum of four foot intervals or segments.

(2) The two units must have a common roof.

The common wall in this project does not extend for 50 % of the maximum depth, as measured from the front to the rear of the lot.

The two units share not a roof, but a portion of a roof.

D) The project is not compatible with SF-3 use. It is clearly designed for group residential use as defined in the LDC 25-2-3 (5)

Group Residential use is the use of a site for occupancy by a group of more than six persons who are not a family, on a weekly or longer basis. This use includes fraternity and sorority houses, dormitories, residence halls, and boarding houses.

It is apparent in the plans that the intended use for this structure is group residential. It is unfathomable that there be 12 lavatory sinks for 6 residents, or almost 1300 sq. ft. of habitable storage space. This space will store humans, and many more than six.

It is not reasonable to approve a permit that will establish a structure intended for an illegal use.

This property owner has run an illegal four-plex on the site since he purchased the property in 2006. Although it has had an open Code Compliance Case since the purchase, it has continued to be rented and inhabited.

E) Besides the exemptible attic space, at the time this application was submitted, stair and walk-in closet square footage was not taken into account. With the accurate count, the project exceeds the .4 Floor to Area Ratio.

F) With 10 bedrooms, the project required 8 parking spaces per 25-6-655 Appendix A. With 4 parking spaces, the project does not meet the requirements.

Appendix A states that a duplex with more than 6 bedrooms must provide one parking space per bedroom. As this project is in the urban core, it would be reduced by 20% to 8 parking spaces. Although it is apparent that the parking plan for this project includes the decomposed parking area surrounding the legal parking spaces, they would not be legal parking spaces as they would significantly increase impervious cover beyond the allowable 45%.

G) With the 10 bedrooms, the project needs to comply with the landscaping requirements outlined in 25-2-981. It does not.

2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:

In order for this lot to be developed in the manner in which this permit seeks to develop it, it would require MF-4 zoning. If that is the intention, the property owner should seek a zoning change. Otherwise, this property should be developed with the same regulations as SF-3 properties, with a structure intended to house a MAXIMUM of 6 unrelated persons.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:

Granting this permit will result in a special privilege to this property owner by permitting a structure to be built which does not meet the requirements of the Land Development Code. This interpretation seeks to ensure that this property is developed consistently with other SF-3 properties.

APPLICANT/AGGRIEVED PARTY CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Printed NURIA ZARAGOZA

Mailing Address 1908 CLIFF ST

City, State & Zip AUSTIN TX 78705 Phone 512-320-0351

OWNER'S CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Printed _____

Mailing Address _____

City, State & Zip _____ Phone _____

Owner: Michael David
3401 Guadalupe St
Austin, TX 78705
1321

[Signature]



January 23, 2012

Mr. Greg Guernsey
Director of Planning and Development Review Dept
City of Austin
505 Barton Springs Road, 5th Floor
Austin, Texas 78704

Re: Standing to appeal 1917 David Street , permit 2011-106377PR, 2012-001658 BP

Dear Mr. Guernsey:

Please see attached electronic mail correspondence from John McDonald, confirming status as an Interested party. This development is within the boundaries of our neighborhood association, Original West University Neighborhood Association. I am an officer in the association.

As stated in the application, my address is 1908 Cliff St. Austin Texas 78705.

My contact number is 791-9674

Very truly yours,

Nuria Zaragoza

Windows Live™ Hotmail (611) Messenger SkyDrive | MSN

Nuria Z
pro

New | Reply Reply all Forward | Delete Junk Sweep ▼ Mark as ▼ Move to

FW: 2011-106377 PR.

[Back to messages](#) |

1917 David St.

To see messages related to this one, group messages by conversation.

Junk (3)

Drafts (27)

Sent

Deleted

POP (12514)

canpac agenda

code compliance

contractors

ebay (8)

izzy rsvp

juniper

Kathie Tovo

samamas

Search Results

New folder

Flagged (4)**Office docs (131)****Photos (454)****Shipping updates (...)**

New category

2 invitations

Sign in to Messenger

Home

Contacts

Calendar



McDonald, John

To Cain, Darren, N...

12/13/11

Reply

Darren,

Add Nuria Zaragoza as an interested party to the interested party spreadsheet to 1917 David Street. Let me know if you have any questions.

JMM

-----Original Message-----

From: Nuria Zaragoza

[mailto:tedandnuria@hotmail.com]

Sent: Monday, December 12, 2011 1:53 PM

To: Nuria Zaragoza

Cc: McDonald, John

Subject: Re: 2011-106377 PR. 1917 David St.

Hi John,

I did not get your usual confirmation on this interested party request.
Did it go through?

Nuria

Sent from my iPhone

On Nov 24, 2011, at 8:58 AM, Nuria Zaragoza
<tedandnuria@hotmail.com>
wrote:

> Hi John,

>

> Please register me as an interested party for the permit above.

> Thank you,

>

FILL HER
WITH C
UP TO
90%

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PUBLIC INFORMATION

Public Search

Issued Permit Report

REGISTERED USERS

New Registration

Update Registration

My Permits/Cases

My Licenses

Request / Cancel / View Inspections

My Escrow Accounts

Reports

Login

HELP

Web Help

FEEDBACK

Email Us

FOLDER DETAILS

Permit/Case	Reference File Name	Description	Sub Type	Work Type	Project Name	Status	Application Date	Issue Date	Expiration Date
2011-106377	2011-106377	new duplex - (2) two story 3/3s with covered porches an alley access (parking). each unit has space on the highest floor which is exemptable under 25.2 subchapter f	R- 103 Two Family Bldgs	New	1917 DAVID ST	Approved	Nov 23, 2011	Jan 6, 2012	May 21, 2012

Related Folders: [Yes](#)

FOLDER INFO

Information	Description	Value
Is this over a Landfill ?		No
Smart Housing		No
Is this property in MUD ?		No
Current Zoning for Building		SF-3-CO-NP
Name of Neighborhood Plan		na
Is Historical Review Required?		No
Is this a Legal Lot ?		Yes
Is there a Cut & Fill in excess of 4 ft		No
Parking Spaces Required		4
Number of Bathrooms		6
Size of Water Meter		2 5/8
Front Set Back		25
Rear Set Back		10
Side Set Back		5
Does property access a paved alley?		Yes
Does property access a paved street?		Yes
Current Use		vacant, recently demod
Proposed Use		duplex
Square Footage of Lot		8018
Trees greater than 19'		No
New/Addn 1st Flr Area Sq. Ft		2320
New/Addn 2nd Flr Area Sq. Ft		882
New/Addn 3rd Flr Area Sq. Ft		1292
New/Addn Basement Sq. Ft		0
New/Addn Attached Garage/Carport Sq. Ft		0
New/Addn Detached Garage/Carport Sq. Ft		0
New/Addn Wood Decks Sq. Ft		0
New/Addn Breezeways Sq. Ft		0
New/Addn Covered Patios Sq. Ft		0
New/Addn Covered Porches Sq. Ft		278
New/Addn Balconies Sq. Ft		0
New/Addn Swimming Pool(s) Sq. Ft		0
New/Addn Spa Sq. Ft		0
New/Addn Other Bldg/Covered Areas Sq. Ft		0
Total New/Addition Bldg Square Footage		4772
Total Building Coverage on lot Sq. Ft.		2598
Total Building Coverage Percent, of Lot		32.4
Driveway area on Private Property		648
Sidewalk/Walkways on Private Property		138
Uncovered Patios		0
Uncovered Wood Decks		0
AC Pads		12
Concrete Decks		0
Other		0
Total Impervious Coverage Square Footage		3396
Total Impervious Coverage Percent of Lot		42.4
Max. Bldg. Cov. Sq. Ft. Allowed		3207
Max. Impervious Coverage Sq Ft Allowed		3608
Building Inspection		Yes
Electric Inspection		Yes
Mechanical Inspection		Yes
Plumbing Inspection		Yes
Energy Inspection		No
Driveway Inspection		Yes
Sidewalks Inspection		Yes
Environmental Inspection		No
Landscaping Inspection		No
Tree Inspection		No
Water Tap Inspection		Yes
Sewer Tap Inspection		Yes
On Site Sewage Facility Inspection		No
Wind Inspection		NA

Fire Inspection	No
Health Inspection	No
Usage Category	103
Hazardous Pipeline Review Required	No
Electric Service Planning Application?	Yes
ESPA Application Number	rls 6-17
ESPA Approval Date	Jan 6, 2012
Site has Water availability?	Yes
Site has Waste Water availability?	Yes
Site has a septic system?	No
Subject to RD&C Requirements	RESIDENTIAL DESIGN STANDARDS
Maximum FAR allowed	.4
Existing 1 Fl Area	0
Existing 1 Fl Area-Ceiling Ht over 15'	0
Existing 1 Fl Area-Ceiling Ht 15' or less	0
Existing Total 1 Fl Gross Area	0
Existing 2 Fl Area	0
Existing 2 Fl Area-Ceiling Ht over 15'	0
Existing 2 Fl Area-Ceiling Ht 15' or less	0
Existing Total 2 Fl Gross Area	0
Existing 3rd Fl Area	0
Existing 3 Fl Area-Ceiling Ht over 15'	0
Existing 3 Fl Area-Ceiling Ht 15' or less	0
Existing Total 3rd Fl Gross Area	0
Existing Basement Gross Area	0
Existing Garage attached	0
Existing Garage detached	0
Existing Carport	0
Existing Total Sq Ft	0
New/Addn 1 Fl Area	2320
New/Addn 1 Fl Area-Ceiling Ht over 15'	0
New/Addn 1 Fl Area-Ceiling Ht 15' or less	2320
New/Addn Total 1 Fl Gross Area	2320
New/Addn 2 Fl Area	882
New/Addn 2 Fl Area-Ceiling Ht over 15'	0
New/Addn 2 Fl Area-Ceiling Ht 15' or less	882
New/Addn Total 2 Fl Gross Area	882
New/Addn 3 Fl Area	1292
New/Addn 3 Fl Area-Ceiling Ht over 15'	0
New/Addn 3 Fl Area-Ceiling Ht 15' or less	1292
New/Addn Total 3 Fl Gross Area	1292
New/Addition Basement Gross Area	0
New/Addition Garage attached	0
New/Addition Garage detached	0
New/Addition Carport	0
New/Addition Total Sq Ft	4494
Total Number of Driveways	00
Driveway Width 1	00
Total Number of Sidewalks	1
Certificate of Occupancy to be Issued	Yes
Code Year	2006
Code Type	International Residential Code

PROPERTY DETAILS

Number	Pre.	Street	Street Type	Dir	Suite Type	Suite Number	City	State	Zip	Legal Desc
1917		DAVID					AUSTIN	TX	78705	Lot: 18 Block: 2 Subdivision: CARRINGTON SUBDN OUTLOT 11 26 27 28 DIV D 1895
Lot: 18 Block: 2 Subdivision: CARRINGTON SUBDN OUTLOT 11 26 27 28 DIV D 1895										

PEOPLE DETAILS

Desc.	Organization Name	Address	City	State	Postal	Phone1
Applicant	Real Estate (Michael McHone)	PO BOX 8142	Austin	TX	78713	(512)481-9111

PROCESSES AND NOTES

Process Description	Status	Schedule Date	Start Date	End Date	Assigned Staff	# of Attempts
Residential Intake	Closed	Nov 23, 2011	Nov 23, 2011	Nov 23, 2011	Bryan Walker (974-2708)	1
Plan Review Administration	Open					0
Residential Zoning Review	Approved	Dec 28, 2011	Nov 29, 2011	Jan 6, 2012	Victor Villarreal (974-2947)	6
Tree Ordinance Review	Open				Michael Embesi (974-1876)	0
Residential Revision After Issuance	Open	Jan 6, 2012				0

FOLDER ATTACHMENT

Description	Detail
-------------	--------

[View Attachment](#)

JOINT PERMIT APPLICATION ON "D" FOR AREA RATIO INFORMATION

TO BE COMPLETED FOR ALL PROPERTIES LOCATED WITHIN THE RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS ORDINANCE BOUNDARY AREA.

Service Address 1917 DAVID STREET
 Applicant's Signature Michael R. McPherson, President Date 11/21/2011

GROSS FLOOR AREA AND FLOOR AREA RATIO as defined in the Austin Zoning Code.

	A Existing		B New / Addition	
I. 1st Floor Gross Area				
a. 1 st floor area (excluding covered or uncovered finished ground-floor porches)	1157	1160 sq.ft.	1160	sq.ft.
b. 1 st floor area with ceiling height over 15 feet.	-	sq.ft.	-	sq.ft.
c. TOTAL (add a and b above)	1157	1160 sq.ft.	1160	sq.ft.
II. 2nd Floor Gross Area See note ¹ below				
d. 2 nd floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft)	486	441 sq.ft.	441	sq.ft.
e. 2 nd floor area with ceiling height > 15 feet.	-	sq.ft.	-	sq.ft.
f. TOTAL (add d and e above)	486	441 sq.ft.	441	sq.ft.
III. 3rd Floor Gross Area See note ¹ below (ATTIC)				
g. 3 rd floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft). (EXEMPTION)	646	186 sq.ft.	646	186 sq.ft.
h. 3 rd floor area with ceiling height > 15 feet	-	sq.ft.	-	sq.ft.
i. TOTAL (add g and h above)	646	186 sq.ft.	646	186 sq.ft.
IV. Basement Gross Area				
j. Floor area outside footprint of first floor or greater than 3 feet above grade at the average elevation at the intersections of the minimum front yard setback line and side property lines.		sq.ft.		sq.ft.
V. Garage				
k. attached (subtract 200 square feet if used to meet the minimum parking requirement)		sq.ft.		sq.ft.
l. detached (subtract 450 square feet if more than 10 feet from principal structure)		sq.ft.		sq.ft.
VI. Carport (open on two or more sides without habitable space above it subtract 450 square feet)				
	1643	1601 sq.ft.	1601	sq.ft.
VII. TOTAL				
	1643	1757 sq.ft.	1757	sq.ft.

TOTAL GROSS FLOOR AREA (add existing and new from VII above)		31286	3202	3514	sq. ft.
GROSS AREA OF LOT		8018			sq. ft.
FLOOR AREA RATIO (gross floor area / gross area of lot)		3.99			sq. ft.

41%

¹ If a second or third floor meets all of the following criteria it is considered to be attic space and is not calculated as part of the overall Gross Floor Area of the structure.

- It is fully contained within the roof structure and the roof has a slope of 3 to 12 or greater
- It only has one floor within the roof structure
- It does not extend beyond the foot print of the floors below
- It is the highest habitable portion of the building; and
- Fifty percent or more of the area has a ceiling height of seven feet or less.

2,999.375F

JUSTIN TENTIAL PERMIT APPLICATION "C"

BUILDING COVERAGE

The area of a lot covered by buildings or roofed areas, but not including (i) incidental projecting eaves and similar features, or (ii) ground level paving, landscaping, or open recreational facilities.

	UNIT A	UNIT B
	<u>Existing</u>	<u>New / Addition</u>
a. 1 st floor conditioned area	<u>1160</u> sq.ft.	<u>1160</u> sq.ft.
b. 2 nd floor conditioned area	<u>441</u> sq.ft.	<u>441</u> sq.ft.
c. 3 rd floor conditioned area	<u>646</u> sq.ft.	<u>646</u> sq.ft.
d. Basement	sq.ft.	sq.ft.
e. Garage / Carport	sq.ft.	sq.ft.
<u>attached</u>	sq.ft.	sq.ft.
<u>detached</u>	sq.ft.	sq.ft.
f. Wood decks [must be counted at 100%]	sq.ft.	sq.ft.
g. Breezeways	sq.ft.	sq.ft.
h. Covered patios	sq.ft.	sq.ft.
i. Covered porches	<u>139</u> sq.ft.	<u>139</u> sq.ft.
j. Balconies	sq.ft.	sq.ft.
k. Swimming pool(s) [pool surface area(s)]	sq.ft.	sq.ft.
l. Other building or covered area(s)	sq.ft.	sq.ft.
Specify _____		

TOTAL BUILDING AREA (add a. through l.) 1740 sq.ft. 1740 sq.ft.
3480

TOTAL BUILDING COVERAGE ON LOT (subtract, if applicable, b., c., d., k. and f. if uncovered)
LOT 8018

2598 sq.ft.
32.4 % of lot

IMPERVIOUS COVERAGE

1,999

Include building cover and sidewalks, driveways, uncovered patios, decks, air conditioning equipment pad, and other improvements in calculating impervious cover. Roof overhangs which do not exceed two feet or which are used for solar screening are not included in building coverage or impervious coverage. All water must drain away from buildings on this site and buildings on adjacent lots.

a. Total building coverage on lot (see above)	<u>2598</u> sq.ft.
b. Driveway area on private property (PAVING)	<u>648</u> sq.ft.
c. Sidewalk / walkways on private property	<u>138</u> sq.ft.
d. Uncovered patios	sq.ft.
e. Uncovered wood decks [may be counted at 50%]	sq.ft.
f. Air conditioner pads	<u>12</u> sq.ft.
g. Concrete decks	sq.ft.
h. Other (specify) _____	sq.ft.

TOTAL IMPERVIOUS COVERAGE (add a. through h.)

8018

3,409 3396 sq.ft.
42.4 % of lot
42.4 ✓

**AUSTIN
RESIDENTIAL PERMIT APPLICATION "D"
FLOOR AREA RATIO INFORMATION**

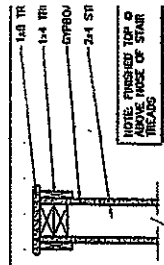
**TO BE COMPLETED FOR ALL PROPERTIES LOCATED WITHIN THE RESIDENTIAL DESIGN AND COMPATIBILITY
STANDARDS ORDINANCE BOUNDARY AREA.**

Service Address 1917 DAVID STREET
Applicant's Signature Michael R. McPherson, President Date 11/21/2011

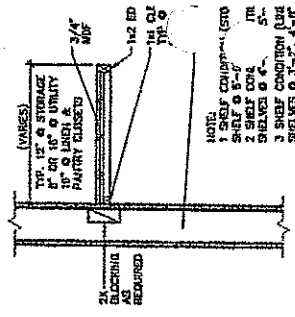
GROSS FLOOR AREA AND FLOOR AREA RATIO as defined in the Austin Zoning Code.

	<u>A</u> <u>Existing</u>	<u>B</u> <u>New / Addition</u>
I. 1st Floor Gross Area		
a. 1 st floor area (excluding covered or uncovered finished ground-floor porches)	<u>1160</u> sq.ft.	<u>1160</u> sq.ft.
b. 1 st floor area with ceiling height over 15 feet.	<u> </u> sq.ft.	<u> </u> sq.ft.
c. TOTAL (add a and b above)	<u>1160</u> sq.ft.	<u>1160</u> sq.ft.
II. 2nd Floor Gross Area See note ¹ below		
d. 2 nd floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft)	<u>441</u> sq.ft.	<u>441</u> sq.ft.
e. 2 nd floor area with ceiling height > 15 feet.	<u>441</u> sq.ft.	<u>441</u> sq.ft.
f. TOTAL (add d and e above)	<u>441</u> sq.ft.	<u>441</u> sq.ft.
III. 3rd Floor Gross Area See note ¹ below		
g. 3 rd floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft)	<u>646</u> sq.ft.	<u>646</u> sq.ft.
h. 3 rd floor area with ceiling height > 15 feet	<u> </u> sq.ft.	<u> </u> sq.ft.
i. TOTAL (add g and h above)	<u>646</u> sq.ft.	<u>646</u> sq.ft.
IV. Basement Gross Area		
j. Floor area outside footprint of first floor or greater than 3 feet above grade at the average elevation at the intersections of the minimum front yard setback line and side property lines.	<u> </u> sq.ft.	<u> </u> sq.ft.
V. Garage		
k. attached (subtract 200 square feet if used to meet the minimum parking requirement)	<u> </u> sq.ft.	<u> </u> sq.ft.
l. detached (subtract 450 square feet if more than 10 feet from principal structure)	<u> </u> sq.ft.	<u> </u> sq.ft.
VI. Carport (open on two or more sides without habitable space above it subtract 450 square feet)	<u>1601</u> sq.ft.	<u>1601</u> sq.ft.
VII. TOTAL	<u>1757</u> sq.ft.	<u>1757</u> sq.ft.
TOTAL GROSS FLOOR AREA (add existing and new from VII above)		
	<u>3222</u> sq. ft.	<u>3514</u> sq. ft.
GROSS AREA OF LOT		
	<u>8018</u> sq. ft.	
FLOOR AREA RATIO (gross floor area / gross area of lot)		
	<u>.399</u> sq. ft.	

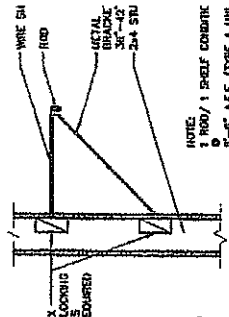
- ¹ If a second or third floor meets all of the following criteria it is considered to be attic space and is not calculated as part of the overall Gross Floor Area of the structure.
- It is fully contained within the roof structure and the roof has a slope of 3 to 12 or greater
 - It only has one floor within the roof structure
 - It does not extend beyond the foot print of the floors below
 - It is the highest habitable portion of the building; and
 - Fifty percent or more of the area has a ceiling height of seven feet or less.



⑤ LOW WALL 1 1/2"



④ TYPICAL SHELVES 1 1/2"



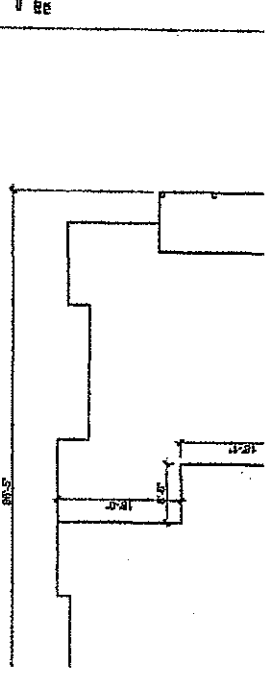
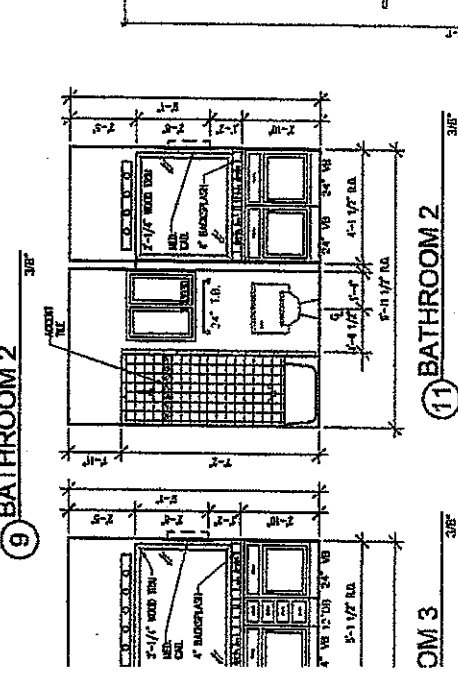
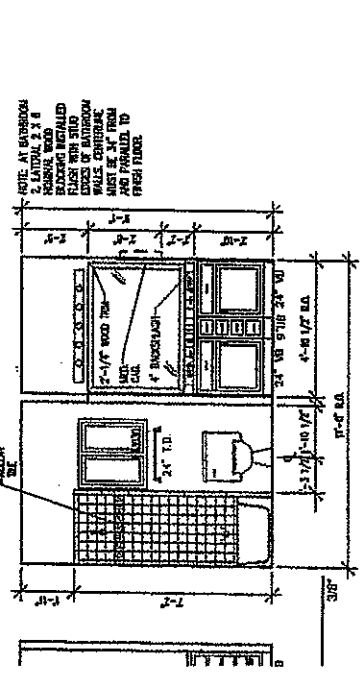
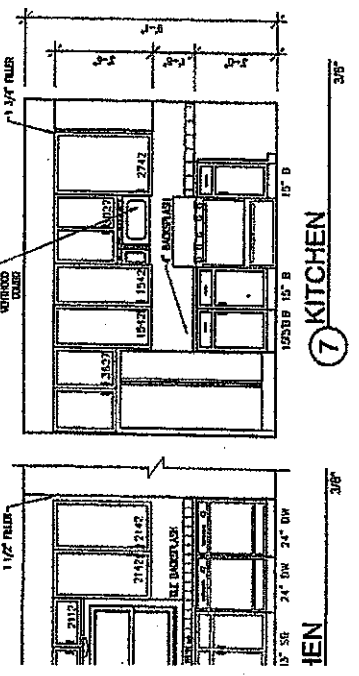
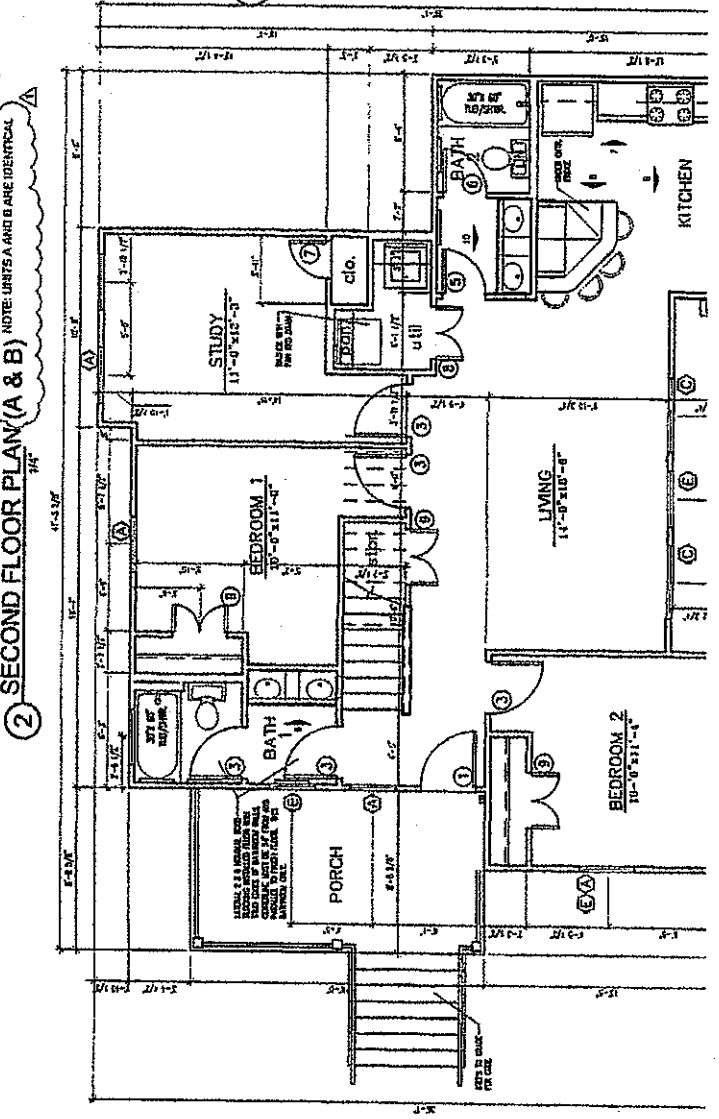
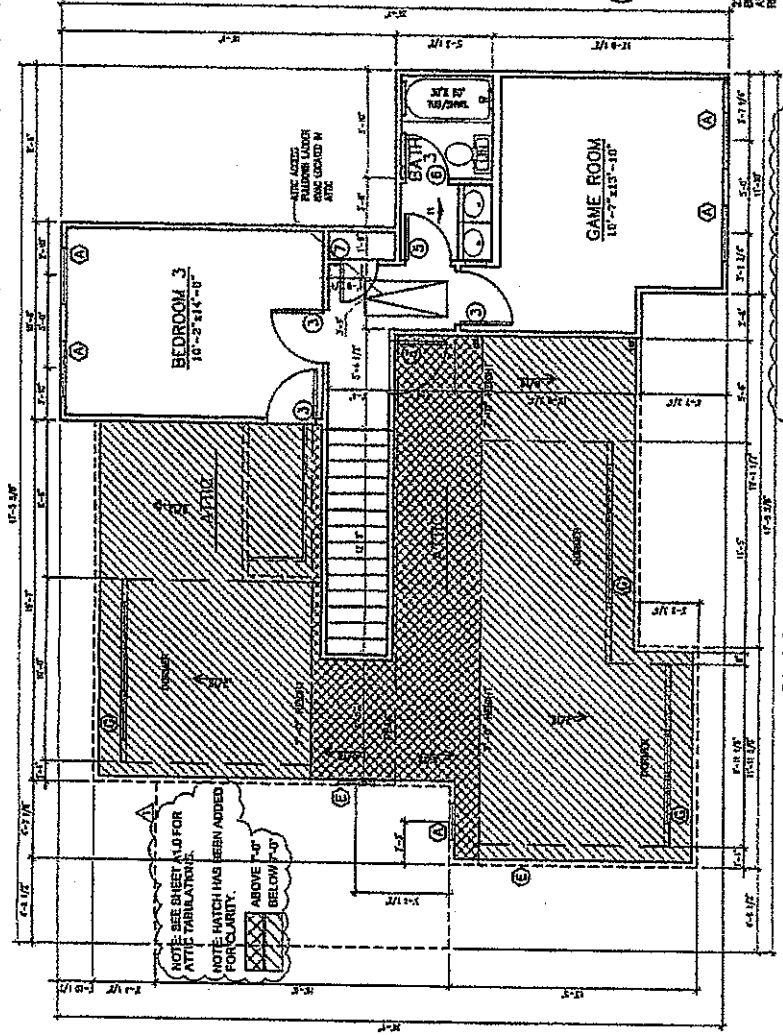
③ CLOSET SHELF 1 1/2"

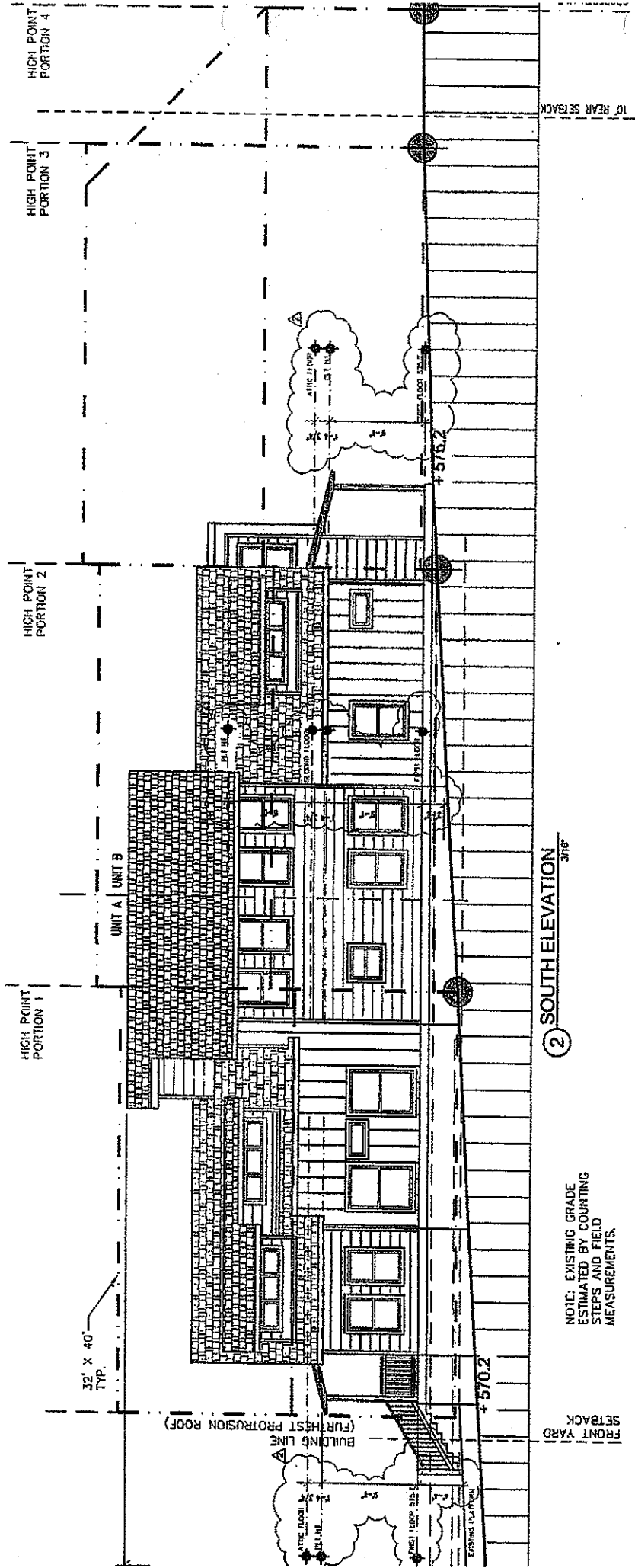
WALL TYPES

24" H @ 16" O.C.	24" H @ 16" O.C.
24" H @ 16" O.C.	24" H @ 16" O.C.
24" H @ 16" O.C.	24" H @ 16" O.C.

GENERAL NOTES TO FLOOR

1. VERIFY ALL DIMENSIONS AND LOCATIONS OF ALL MATERIALS AND FINISHES.
2. ALL DIMENSIONS TO BE GIVEN BY THE ARCHITECT.
3. VERIFY ALL DIMENSIONS AND LOCATIONS OF ALL MATERIALS AND FINISHES.
4. VERIFY ALL DIMENSIONS AND LOCATIONS OF ALL MATERIALS AND FINISHES.



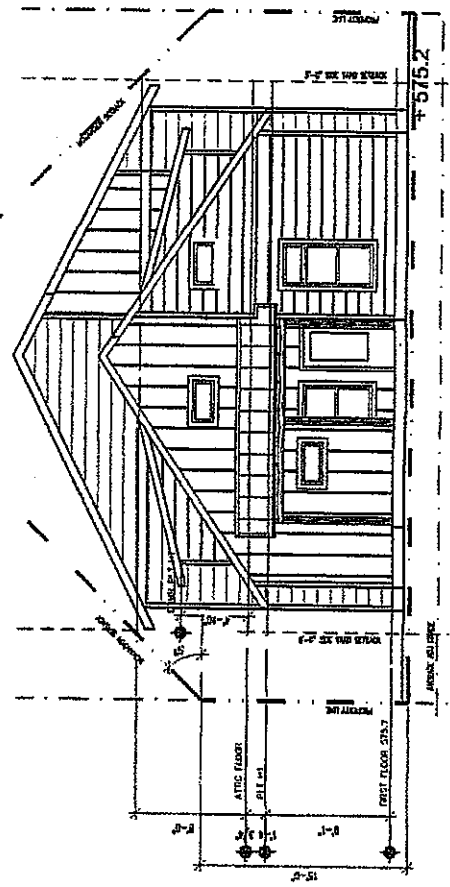


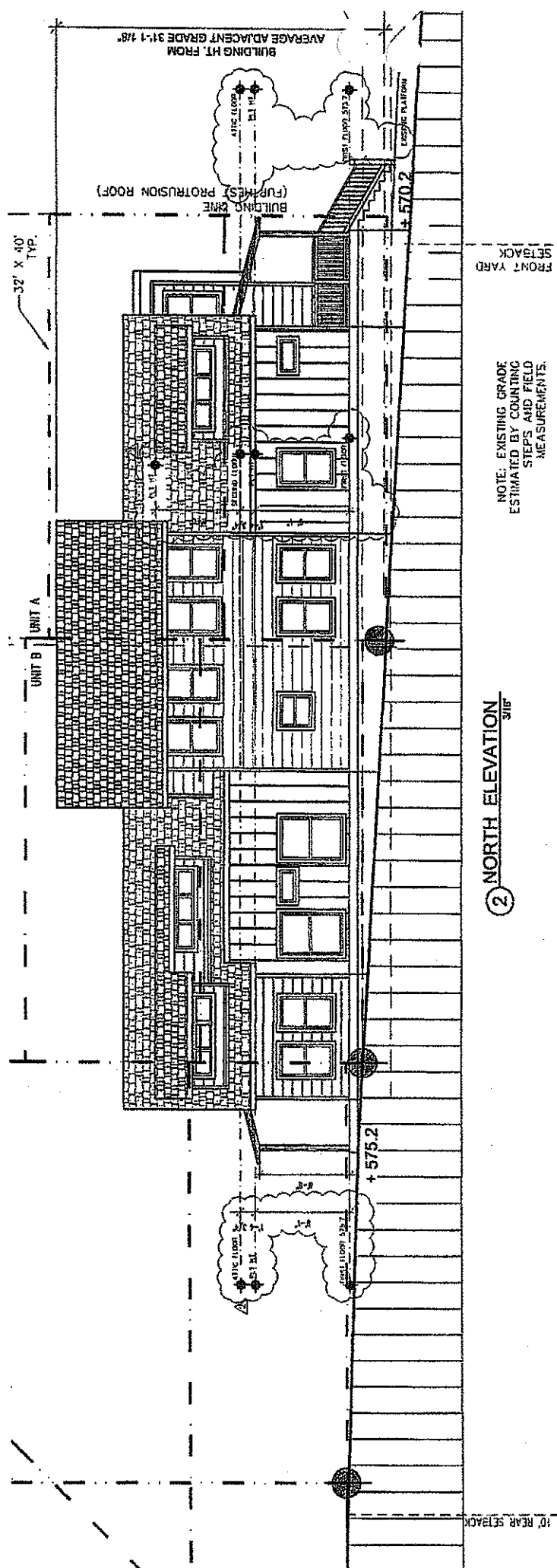
② SOUTH ELEVATION 216'

NOTE: EXISTING GRADE ESTIMATED BY COUNTING STEPS AND FIELD MEASUREMENTS.

ALL ELEVATIONS ARE SHOWN FROM FRONT ELEVATION AND THE REAR ELEVATIONS ARE IDENTICAL. SEE ALL ELEVATIONS FOR ADDITIONAL INFORMATION. SEE A1.0 FOR ADDITIONAL INFORMATION. SEE A1.0 FOR ADDITIONAL INFORMATION.

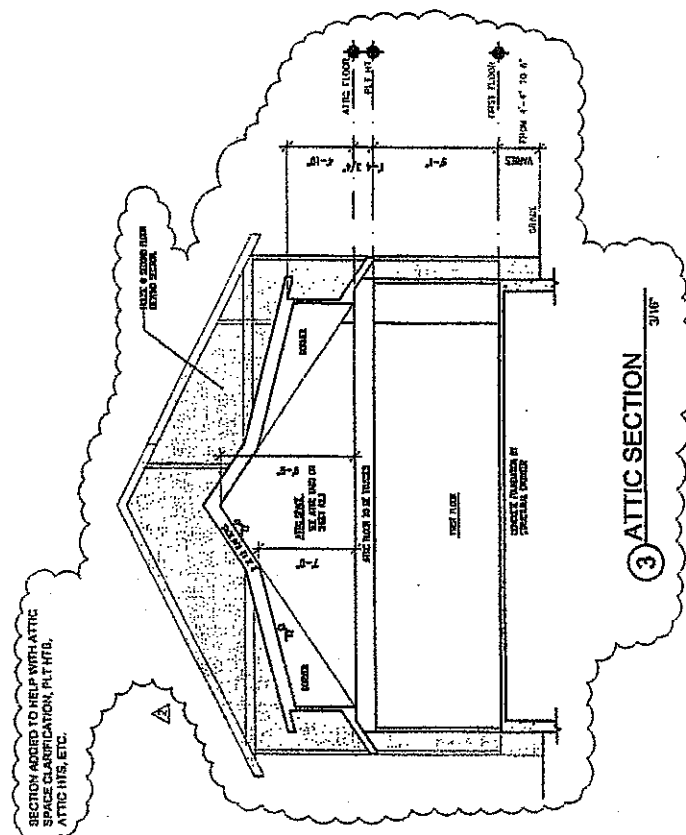
HIGH POINT PORTION 2
ELEVATION FOR A1.0



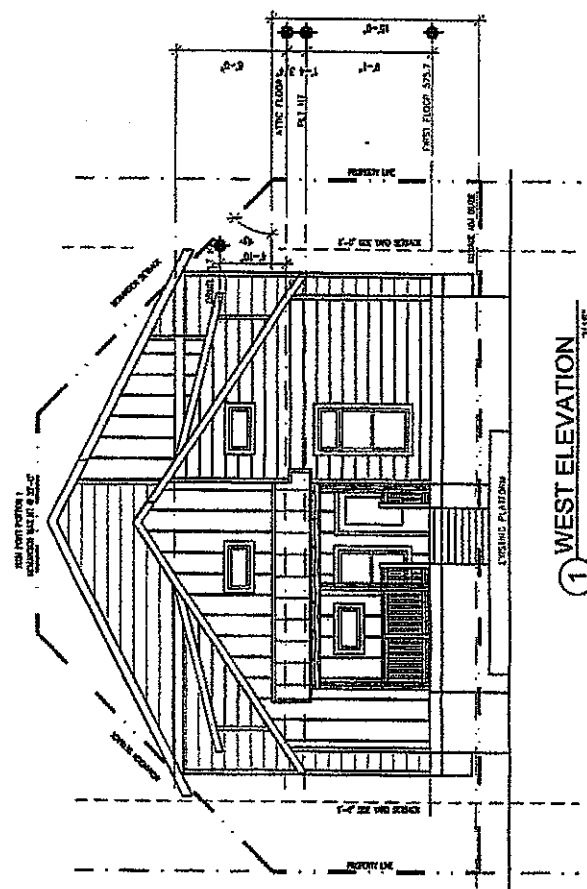


NOTE: EXISTING GRADE
ESTIMATED BY COUNTING
STEPS AND FIELD
MEASUREMENTS.

② NORTH ELEVATION 3/15'



3 ATTIC SECTION



① WEST ELEVATION

ALL ELEVATIONS ARE SH
FRONT ELEVATION AND T
ELEVATIONS ARE IDENTI
SIDE ELEVATIONS ARE ID
MCANSMION TENT HAS BI
TO ALL ELEVATIONS FOR
SEE A1.0 FOR ADDITIONAL
MCANSMION TENT INFO.

MATERIAL LEC



MEMORANDUM

TO: American Institute of Architects- Austin

THRU: Residential Review Planners and Residential Inspectors

FROM: Daniel Word, Planner II, Residential Review Division
Watershed Protection and Development Review Department

DATE: July 29, 2008

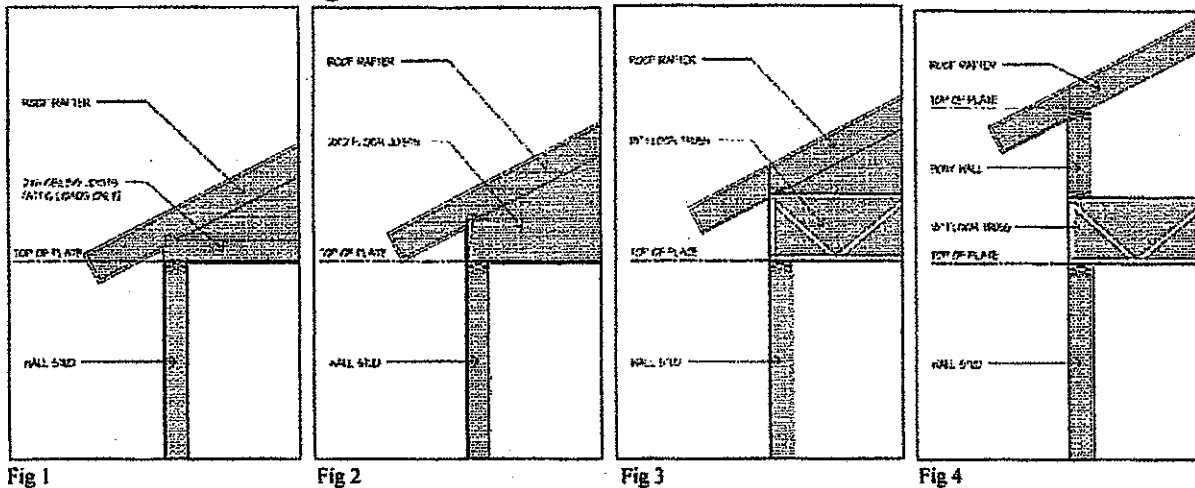
SUBJECT: Habitable Attics and Gross Floor Area

Section 3.3.3 (C) of Subchapter F, commonly referred to as the "McMansion" ordinance, allows for the exclusion of a habitable portion of an attic from the gross floor area measurement prescribed in the Land Development Code if:

1. The roof above is not a flat or mansard roof and has a slope of 3 to 12 or greater;
2. It is fully contained within the roof structure;
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

Under the second provision, the space must be "fully contained within the roof structure." For the purposes of implementing Subchapter F of the Land Development Code, this is interpreted to mean that the attic space is contained between the underside of the roof rafters and the top of the ceiling joists, floor joists, or floor truss, provided that the finished floor of the attic space does not drop below the height of the ceiling joists, floor joists, or floor truss at the intersection with the exterior walls. This is to prevent the floor surface within the attic space to be artificially lowered in order to gain additional ceiling height that would not otherwise be present.

Please refer to the following sketches for further clarification:



Figures 1, 2, and 3 are examples of acceptable construction methods that would qualify as being "fully contained within the roof structure." Figure 4 is a sketch of an unacceptable construction method for the purpose of qualifying as being "fully contained within the roof structure." This attic area would not qualify for exclusion from the calculation of gross floor area.

Please see Part 2. (D) and
Part 7

ORDINANCE NO. 030605-49

AN ORDINANCE AMENDING SECTIONS 25-2-511, 25-2-555, AND 25-2-981 OF THE CITY CODE AND REPEALING AND REPLACING SECTION 25-2-773 OF THE CITY CODE RELATING TO DUPLEX RESIDENTIAL USE; REPEALING ORDINANCE NUMBER 030227-28 AS AMENDED BY ORDINANCE NUMBER 030522-15; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 25-2-511(A) of the City Code is amended to read as follows:

(A) Notwithstanding any other provision of this code, except [Except] as provided in Subsection (B):

- (1) not more than six unrelated persons may reside in a dwelling unit; and
- (2) not more than three unrelated persons 18 years of age or older may reside in a dwelling unit of a duplex residential use, unless:

(a) before June 5, 2003:

- (i) a building permit for the duplex structure was issued; or
- (ii) the use was established; and

(b) after June 5, 2003 the gross floor area and the number of bedrooms in the duplex structure did not increase, except for the completion of construction authorized before that date.

PART 2. Section 25-2-555 of the City Code is amended to add a new Subsection (D) to read as follows:

➡ (D) This subsection applies to a duplex residential use.

- (1) On a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms.
- (2) On a lot with a lot area of 10,000 square feet or more, a duplex structure may not exceed a floor-to-area ratio of 0.57 to 1.

PART 3. Section 25-2-773 of the City Code is repealed and replaced by a new Section 25-2-773 to read as follows:

§ 25-2-773 DUPLEX RESIDENTIAL USE.

- (A) For a duplex residential use, the base zoning district regulations are superseded by the requirements of this section.
- (B) For a duplex residential use:
 - (1) minimum lot area is 7,000 square feet;
 - (2) minimum lot width is 50 feet;
 - (3) maximum building cover is 40 percent;
 - (4) maximum impervious cover is 45 percent; and
 - (5) maximum building height is the lesser of:
 - (a) 30 feet; or
 - (b) two stories.
- (C) Except as provided in Subsection (D), four parking spaces are required for a duplex residential use.
- (D) For a duplex that exceeds 4,000 square feet of gross floor area or has more than six bedrooms, the number of parking spaces required is the greater of:
 - (1) four; or
 - (2) one space for each bedroom.
- (E) Not more than one required parking space may be located behind another required parking space.

PART 4. Section 25-2-981(B) of the City Code is amended to read as follows:

- (B) This article does not apply to:
 - (1) property zoned central business district or downtown mixed use district;
 - (2) a lot containing one single-family residence;

- (3) a lot containing one duplex residence, unless the residence exceeds 4,000 square feet of gross floor area or has more than six bedrooms [~~with fewer than six bedrooms~~];
- (4) a two-family residential use;
- (5) a secondary apartment special use;
- (6) substantial restoration of a building within one year after the building is damaged;
- (7) restoration of a building with a historic designation; or
- (8) interior or facade remodeling, if the front and side exterior walls of the building remain in the same location.

PART 5. Ordinance Number 030227-28 as amended by Ordinance Number 030522-15 is repealed.

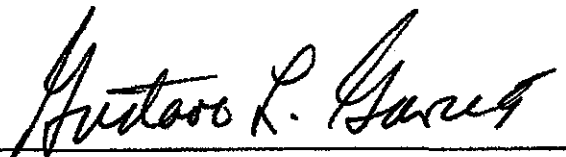
PART 6. The Council waives the requirements of Sections 2-2-3 and 2-2-7 of the City Code for this ordinance.

PART 7. The Council finds that the regulations in this ordinance are necessary to ensure that a duplex residential use is not established unless it is compatible with other nearby land uses. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED

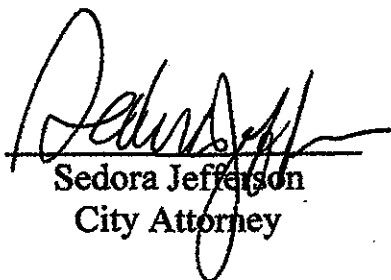
_____, June 5, 2003

§
§
§



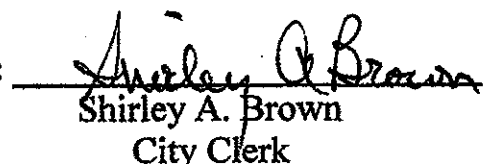
Gustavo L. Garcia
Mayor

APPROVED:



Sedora Jefferson
City Attorney

ATTEST:



Shirley A. Brown
City Clerk

Walker, Susan

From: Melissa Hawthorne [mwh@austin.rr.com]
Sent: Wednesday, February 22, 2012 8:57 AM
To: Walker, Susan
Cc: Lloyd, Brent
Subject: FW: 1917 David Street

FYI

From: Megan Meisenbach [mailto:mmeisenbach@austin.rr.com]
Sent: Wednesday, February 22, 2012 7:44 AM
To: jjack2@austin.rr.com; heidigoebel@sbcglobal.net; shampton@hoovers.com; mwh@austin.rr.com; bryan@bkradio.net; smorrison@thefowlerlawfirm.com; nora_salinas@yahoo.com; will.schnier@gmail.com; pdi@grandecom.net
Subject: 1917 David Street

Regarding Stealth Dorm Duplexes and 1917 David Street
 February 22, 2012

Dear Board of Adjustment Members:

Along with Mr. Tassin I am concerned about 1917 David Street and "Stealth Dorms". I concur with Mr. Tassin's letter and suggestions below:

"I'm concerned that so-called Stealth Dorms are proliferating on single family lots in formerly quiet residential areas and thereby subverting the codes established to protect such areas. These duplexes are overcrowded and result in inadequacy in parking, garbage collection facilities and, most importantly, safety.

Ten or more students are herded into a structure limited by law to 6 unrelated parties. Code enforcement is understandably difficult (impossible?), but denying permits where obvious bedrooms are disguised as dens, offices, game rooms, etc. is an effective ounce of prevention. Currently city staff exercise no judgment about which rooms are bedrooms, instead blindly accepting the labels applied by the applicant or his/her design consultant. Said staff need a bedroom definition, otherwise occupancy limits are futile. The code limits the number of "bedrooms" but doesn't define them--it makes no sense.

Mislabeling rooms conceals efforts to maximize the number of bedrooms so they can be rented to students for \$1,000 monthly (check Uptown Realty listings). The incentive to create \$10,000 in monthly income from a cheaply constructed structure on an SF-3 lot is great, so neighborhoods need meaningful protection to cut off this end-run around the spirit of the code. And students need protection from non-code bedrooms that often lack the requisite smoke detectors and arc fault interrupters.

Please deny the permit application for 1917 David Street and institute the following change to address the "Stealth Dorm" problem:

Define a bedroom as any habitable room meeting both of the following conditions:

The minimum (IRC) code dimensions for a bedroom (minimum area 70 square feet with minimum width 7

4/11/2012

and proper egress--an interior doorway and exterior door or window no greater than 44" above finished floor and with sufficient opening area).

Privacy--a door or doorway separating it from adjacent room(s).

Thank you,
Jay Tassin"
Megan Meisenbach

Walker, Susan

From: Melissa Hawthorne [mwh@austin.rr.com]
Sent: Tuesday, February 21, 2012 10:49 PM
To: Walker, Susan
Cc: Lloyd, Brent
Subject: FW: Stealth Dorm Duplexes and 1917 David Street

FYI

From: Jay Tassin [mailto:jtassin@austin.rr.com]
Sent: Tuesday, February 21, 2012 9:54 PM
To: jjack2@austin.rr.com; heidigoebel@sbcglobal.net; shampton@hoovers.com; mwh@austin.rr.com; bryan@bkradio.net; smorrison@thefowlerlawfirm.com; nora_salinas@yahoo.com; will.schnier@gmail.com; pdi@grandecom.net
Subject: Stealth Dorm Duplexes and 1917 David Street

February 21, 2012

Dear Board of Adjustment Members:

I'm concerned that so-called Stealth Dorms are proliferating on single family lots in formerly quiet residential areas and thereby subverting the codes established to protect such areas. These duplexes are overcrowded and result in inadequacy in parking, garbage collection facilities and, most importantly, safety.

Ten or more students are herded into a structure limited by law to 6 unrelated parties. Code enforcement is understandably difficult (impossible?), but denying permits where obvious bedrooms are disguised as dens, offices, game rooms, etc. is an effective ounce of prevention. Currently city staff exercise no judgment about which rooms are bedrooms, instead blindly accepting the labels applied by the applicant or his/her design consultant. Said staff need a bedroom definition, otherwise occupancy limits are futile. The code limits the number of "bedrooms" but doesn't define them--it makes no sense.

Mislabeling rooms conceals efforts to maximize the number of bedrooms so they can be rented to students for \$1,000 monthly (check Uptown Realty listings). The incentive to create \$10,000 in monthly income from a cheaply constructed structure on an SF-3 lot is great, so neighborhoods need meaningful protection to cut off this end-run around the spirit of the code. And students need protection from non-code bedrooms that often lack the requisite smoke detectors and arc fault interrupters.

Please deny the permit application for 1917 David Street and institute the following change to address the "Stealth Dorm" problem:

Define a bedroom as any habitable room meeting both of the following conditions:

1. The minimum (IRC) code dimensions for a bedroom (minimum area 70 square feet with minimum width 7 feet and proper egress--an interior doorway and exterior door or window no greater than 44"

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above finished floor and with sufficient opening area).

2. Privacy--a door or doorway separating it from adjacent room(s).

Thank you,

Jay Tassin